

# CALIFORNIA★POLITICAL REVIEW

JANUARY/FEBRUARY 2005 • VOLUME 16 • NUMBER 1 • \$4.95

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Duncan Hunter wins one  
for the troops

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## Four Reforms

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Ron Keeva Unz  
555 Bryant St #371  
Palo Alto, CA 94301

A

# An Opening for Common Sense

*"The beginning of political wisdom is the recognition that liberalism is at the end of its intellectual tether."*  
— Irving Kristol

What used to be called "liberalism" has degenerated into reflexive attacks on everything from the family car to free speech to the Boy Scouts — a movement without a mind and with nowhere to lead. Common sense is the cure — find it in the pages of *California Political Review*. Subscribe today!



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# CALIFORNIA★POLITICAL REVIEW

JANUARY / FEBRUARY 2005 • VOLUME 16 • NUMBER 1

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**Blue** As every schoolboy knows, or ought to, blue is the color of conservatism and the right, while red is the color of socialism, communism, and the left. So Criticus had to investigate why these associations had been reversed in recent years by the media.

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CALIFORNIA PUBLIC POLICY FOUNDATION

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## CORRESPONDENCE

### A moral issue, not one of balance

David Lindros (Correspondence, *CPR*, Nov./Dec. 2004), commenting on the pro-big-government bias underlying Sacramento's "baseline" budgeting, asks "Who could possibly favor a regime of assumptions that every dollar spent by government is a 'good investment'? Clearly no one whose concern is for the public interest."

Mr. Lindros may be writing somewhat tongue-in-cheek, but in any event his question ignores human nature, a sure indicator that it (his question) is asked under the influence of left-wing prejudices.

All people consider their own interests when taking sides on issues, even altruistic individuals who see their "interest" (or as they might be more likely to name it, their "cause") as being identical with the interests of the public as a whole. A philanthropist is happy when he is able to give to the needy since that is his cause or interest; an entrepreneur, if he is honest, is happy when he gives his customers fair value for their money, because that is *his* cause, at least in part. Just because a cause or interest is not selfish does not in the least mean it is no longer an interest.

Most office holders, I suspect, see their work as serving others, and want to achieve their objectives as much as (perhaps more than) the most self-centered old Scrooge among us. The trouble with big government is not that it substitutes the bureaucracy's selfish interests for some debatable "public interest," but that it enables certain people (those in power) to dictate which interests are served (their own) and which are not *without regard to objective moral standards*. That is, they take the property and other resources of people who have earned or created them — people who therefore hold the moral right to determine how those resources are used (which interests they

will serve) — and use these stolen resources to serve their own interests. The ultimate instance of this abuse is slavery, wherein everything a man does — his whole life — is subordinated to his master's will without compensation or freedom to end the arrangement. The bigger government grows, the more advance is made toward slavery in its relationship with the people it ostensibly serves.

That is the premise of the state in any form at any level: that to some extent, men are free to take what does not belong to them to serve purposes other than those their rightful owner would choose. The danger comes when we forget that this is always evil, sometimes an evil that is necessary to combat crime by individuals or by international conquerors, crime that would wipe out our freedom entirely if not checked. But even then, it is evil (and would not be done if, as the saying goes, men were angels). As such, it must never be employed beyond the lowest possible level. The same principle is routinely invoked in judging what would otherwise be a crime "committed" in self-defense. If the force, say, used is no more than necessary to defend oneself, it is excused. Anything in excess of necessity, however, is condemned.

But baseline budgeting begins with the indefensible notion that use of the police power of government can be good in itself, a short step from concluding that "every dollar spent by government is a 'good investment'." It's a threadbare rationalization for pushing people around "for their own good" that ends up gathering all power in the hands of a royal elite. America's Founding Fathers rejected this notion, precisely as a *moral* issue, as an issue of right and wrong, not a mechanical balancing of competing interests.

Jim Bandros  
Santa Monica

# SACRAMENTO SPECTATOR

President George W. Bush may not be the only Republican chief executive to face more outspoken conservative Republican lawmakers and activist organizations this year. Now-second-year Governor Schwarzenegger faces a similar budding and building conservative angst in Sacramento.

Many conservatives supported Schwarzenegger in the recall election on the basis that 1) the effective choice was Ahnolt or Lt. Gov. BustaMecha; and 2) acknowledging that the "glass was half full" with Schwarzenegger, that half-full glass would still be substantial, and obviously more than they would get from a re-affirmed Gray Davis.

Whatever the judgment of conservatives on premise number one, their mindset on premise number 2 has grown distinctly negative, particularly in the past few weeks, a development that ought to cause concern for those who wish this governor well.

Complaints fall mainly into two categories: appointments to many key agencies, especially environmental and some with business climate implications, of not just liberal Democrats, but

extreme, some say fringe, anti-business eco-warriors.

One Republican lobbyist commented, "Because Davis was afraid of his shadow, some of Arnold's appointments are actually to the left of anyone Gray would have dared nominate."

The second concern is summed up as "all talk and no action" regarding conserv-



ative initiatives such as the governor's California Performance Review, spending caps, and so on. A long-time GOP staffer added, "I wonder how many conservatives would have voted for this guy if they realized the glass was in fact only one tenth, not one-half, full"?

Now their November electoral success in turning back every GOP challenge has emboldened legislative Democrats in their dealing with the governor. Under the circumstances, the last

thing Schwarzenegger can afford is significant dissension within GOP ranks. GOP Senate Leader Dick Ackerman and Assembly chief Kevin McCarthy will have their work cut out for them to maintain the level of unity and support for the governor that existed last session.

It is unlikely the two leaders will be anything but supportive of Schwarzenegger, at least publicly. But conservatives in the Legislature and grass roots GOP organizations, some of whom supported the governor in the recall and others who did not, are less likely to hold their fire for long if the governor continues to appoint not just liberals, but extreme liberals, to his administration.

In addition, the appointments already made leave Schwarzenegger precious little wiggle room with his GOP base on licenses for illegal aliens or tax increases. Any gubernatorial softening on either issue would likely lead to a major split in GOP ranks, ending a more than usually long honeymoon with a bang.

None of this is preordained, and the governor's political gurus can avoid it ... if they are nimble enough, and if they pay proper attention to their legislative base.

Your *Spectator* pledges to attend as many cocktail parties and lavish dinner *soirees* as necessary to keep you up to date on this key story of early '05.

—A. P. C.

# A journalistic report, or a wish?

*Republicans hold the House, Senate, and White House. For big media reporters, this equals a country 'divided.'*

G E O R G E N E U M A Y R

**B**URNT LAST TIME, elite journalists promised not to invest any faith in exit polling in this year's presidential election. But they did anyway. Deep in the tank for John Kerry all along, they couldn't resist ill-informed pro-Kerry buzz early in the day based on exit polling. As results in Florida exposed the early reports as foolish conjecture, the press corps looked downright hurt that exit pollsters had dashed their hopes again.

Republicans hold the House, Senate, and White House. Yet reporters said on election night, and for weeks after, that the country is "divided." Which is their way of saying that they feel divided from the country they cover. If the country were as divided as they eagerly assert, the Democrats would control at least one branch of the government. They would have gained, not lost, votes in Florida. And Bush would not have improved on his popular vote numbers so significantly.

The media's country-is-divided theme is not a journalistic report, but a wish: their attempt to create the appearance of division in order to generate some real division to block conservatism in the country. The Democrats are a bi-coastal party, claiming elite, populous pockets on the two coasts, but the rest of the country, apart from a few sections on the Canadian border and upper Midwest, isn't interested in their European agenda.

What lessons did the media conclude from this election? That the Democrats are too liberal for America? No, that's not the problem. The problem is "they didn't get their message out," said pundits. It would never occur to them that the Democrats' crisis is not that the American people don't understand their message but that they understand it too well.

*Mr. George Neumayr is California Political Review's press critic.*

When Republicans lose, the media say, "Republicans need to become more liberal, more accommodating" and "their message has been rejected." But when Democrats lose, they say that the country is "bitterly divided" and that the Republican president has a solemn duty to tailor his agenda to the wishes of Democrats. The media immediately treated Bush as if he had lost the election, demanding that he bring Democrats into his cabinet and cut compromises with them.

Elite reporters had so ineptly covered the race that it came as an astonishing epiphany to them on election night that millions of Americans named as their most important issue not Iraq, not the economy, but "moral issues." Equally dismaying to reporters was that so many traditional marriage propositions passed across the country. Reporters treated the numbers like a curious anthropological finding. It chafes on reporters that the American people voted for George Bush not in spite of his faith but because of it. All their conjuring up of a "divided" nation on moral and religious matters was a reflection of their feelings, not the country's.

**T**HE AMERICAN PEOPLE don't object to Bush's faith; the media do. On election night the grey heads of CBS — Dan Rather, Ed Bradley (sporting a ludicrous earring), Lesley Stahl, and Bob Schieffer — looked at the results with puzzlement and barely concealed shock. They had never seen the country so "divided" — from their feelings.

✱ ✱ ✱

At Bill Clinton's presidential library opening in November God poured his rain down on the just and the unjust but mainly on the ex-president. It was a

# THE FRONT LINE

## Redistricting by Ray Haynes

**T**he latest and hottest topic for Republicans in Sacramento is redistricting. 2004 saw millions spent on legislative elections as Republicans and Democrats fought to a draw. The count just prior to the election was 48 Democrats and 32 Republicans in the assembly, 25 Democrats and 15 Republicans in the state senate, 35 Democrats and 20 Republicans from the California congressional delegation (if you include California's two U.S. senators).

**A**nd the count after the election? Exactly the same, even though both sides spent record amounts to change the partisan makeup. The 2001 "gerrymandered" redistricting plan received the blame for this stalemate. Republicans and Democrats joined together to protect their own jobs, say the critics. In the Legislature, however, in the era of term limits, no legislator is voting to protect his or her own job: they usually vote to protect the job of their successor. The truth of the 2001 redistricting plan is that legislative Republicans voted to protect the Republican majority in Congress, while legisla-

*Ray Haynes represents California's 66th Assembly District.*

tive Democrats voted to protect their majority in the Legislature.

**T**he deal was bad for the Legislature's minority Republicans and Congress's minority Democrats. It was a job protection measure only for members of California's House delegation. To bring competitiveness back to legislative and congressional races, the idea is now circulating to use an initiative to replace the current set of gerryman-



dered district lines with new lines drawn not by incumbent politicians, but by people (usually retired judges) less directly and personally interested in the outcome who will have to follow objective rules designed to discourage gerrymandering. A fairer redistricting, the argument goes, will result.

**B**efore euphoria carries us completely away, however, consider a few caveats: first, redistricting is the most political act anyone performs in politics: no participants are unbiased, in-

cluding retired judges, who were once appointed by some partisan politician.

**S**econd, redistricting initiatives are notoriously difficult to pass. A 1990 set of redistricting initiatives lost in a nasty defeat amid voter confusion and Democrat deceit. Redistricting is an arcane process, and voters are easily deceived by well-financed campaigns painting whatever is proposed as an unmitigated evil.

**B**ut most importantly, Republicans must not think fair redistricting alone can end the Party's minority status. It won't substitute for hard work. Democrats win here because they've persuaded more Californians to support their Party. Republicans must do this hard work of persuading: in black and Hispanic communities showing how Republican solutions better serve urban areas than tax-and-spend welfare; at country clubs proving to the wealthy that healthy businesses require Republican policies and that they should not let social issues overshadow their concern for their financial future; in churches convincing union members that GOP positions on social issues will benefit their families more than the union's emphasis on their pocketbooks.

**A**lso, Republicans must organize to turn-out their vote: all hard work, but necessary to build real GOP majorities in California.

CPR

celebration of a “glorified house trailer,” as Clinton put it, quoting a British publication’s description of the architectural monstrosity next to the Arkansas River. It was an event held in the South but it might as well have been held in Hollywood. Naturally, the press regarded it as a moment of great American majesty, even as it evoked the low and depressing culture that Clinton’s Fleetwood Mac inauguration accelerated. The 1970s America that Clinton’s events always contain is so empty, so bereft of distinctively American high culture that it has to outsource cultural performances to foreign rockers who look like hobos.

The press purred over the proceedings, though oddly the Clinton News Network and pro-Clinton loudmouths on MSNBC felt relaxed enough to come out and acknowledge that Clinton as president had the morals of a strip club owner. “A rascally dog,” Hillary Rosen on MSNBC called him. So much for the left’s agnosticism about attacks on Clinton’s character. The infidelity charges against him were “uncorroborated,” “baloney,” “unbelievable,” they used to say. Gennifer

Flowers and all the others were lying connivers, they lectured the American people. The right called him a “rascally dog” and they cried foul. Now they call him a rascally dog and pat themselves on the back for honesty that comes about 14 years too late.

CLINTON IS even calling his conduct “public” now. Almost. In an interview with Peter Jennings, he says that it was “public-personal.” But then he blubbered angrily that “No other president ever had to endure someone like Ken Starr inviting innocent people, because they wouldn’t lie, in a systematic way, and having respectable news outlets treat them like they were serious, and parroting everything they leaked. No one ever had to try to save people from ethnic cleansing in the Balkans, and people in Haiti from a military dictator that was murdering them, and all the other problems I dealt with, while every day, an entire apparatus was devoted to destroying him.”

Now Clinton, scrambling for a Carterite legacy, is

## WHAT YOU HAVEN’T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

For Republicans, and conservatives in particular, who live in “Occupied Kalifornia,” it’s a bit demoralizing to look through the razor wire fences to our neighboring states and see what I call “Free America.”

I’m talking about an America that reelected an honorable man who happens to have a deep belief in God, a consistent adherence to a philosophy called “compassionate conservatism,” and the fortitude to stick to his convictions.

I’m also talking about an America that understands that the assault weapons menace is nothing but folly — and an America where the law abiding are now increasingly able, legally, to exercise their right to arm themselves with concealed weapons to defend themselves and those they hold dear. In that America, people

*Sam Paredes is executive director of Gun Owners of California.*

rejected media scare tactics because, for one reason, where Second Amendment freedoms are restored crime rates fall.

Then there is Occupied Kalifornia heading another direction.

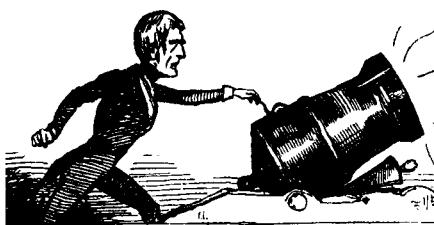
We have a popular Republican governor who’s made at least 10 bad decisions for every star-spangled good one, the most egregious bad one being his outright ban of certain firearms that, through the more than 80 years they’ve existed, have never been used in the commission of a crime. I want to emphasize the word “never.”

We have an attorney general who

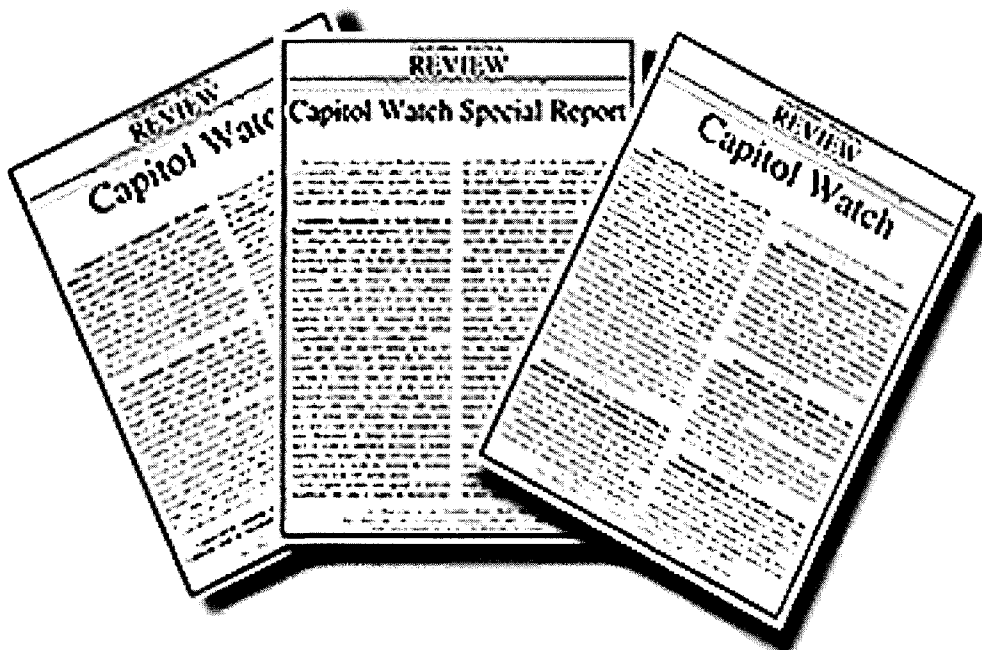
wants to make a Washington state-based company filthy rich at the expense of law-abiding Californians by requiring ammunition manufacturers to use their laser engraving technology on ammunition sold in the state. Put simply, this means the state would be able to register all ammunition and the names of ammunition purchasers in a state-controlled databank, ostensibly to help solve crimes. Meanwhile, we have a Legislature fixated on destroying the family, along with other essential elements of our society.

As a famous man once asked, what is to be done? Now is not the time to play a game Senator H.L. Richardson calls “One Downmanship”: coming up with one story after another about how bad things are in this state and why we can’t win. But it is time for California freedom lovers to enter the battle to rejoin Free America.

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off to save Africans from the ravages of sexually transmitted disease.

✱ ✱ ✱

**W**HAT IS the difference between aborting a baby and euthanizing it? Nothing except the timing and method of the killing. In the Netherlands, a country unafraid to pursue the logic of liberalism to its ultimate conclusions, doctors have devised a program to euthanize babies deemed defective. They euthanized four babies last year, and now they are calling upon the Dutch government to form a more ambitious program that would let doctors euthanize undesirables with “no free will.” Meaning minors.

C.S. Lewis wrote that evil is done “in clean, carpeted, warmed and well-lighted offices, by quiet men with white collars and cut fingernails and smooth-shaven cheeks who do not need to raise their voices.”

Lewis could have added that they don’t even need to raise their voices when they go on public radio to provide bland descriptions of their evil. In late November, National Public Radio politely interviewed one of the Dutch doctors overseeing the euthanasia-for-children program, Eduard Verhagen, clinical director of the Pediatric Clinic of the University Hospital at Groningen.

This white-coated doctor with neatly trimmed fingernails didn’t need to raise his voice when asked by NPR quite casually, “How was it decided that they should die?” The children had medical conditions like “spina bifida,” responded Verhagen. The babies were born “with incurable conditions,” so “we felt that in these children the most humane course of action would be to allow the child to die, and even actively assist them in their death.”

Assist them in their death? NPR might have asked in horror. Instead it treated him like a respected chef sharing a soup recipe.

CPR

THOSE IN POWER OVER US

## The Dangerous New-Age Initiatives

*A sympathetic cause voters cannot resist supporting plus an unpopular target to supply the funding — it’s almost like a license to steal from the public treasury.*

M . D A V I D S T I R L I N G

“A democracy ... can only exist *until the voters discover they can vote themselves largesse from the public treasury* ... with the result that a democracy always collapses over *loose fiscal policy* ...” (*highlight added*)

— Alexander Tyler, *Cycle of Democracy*, 1770

**T**HE CONSTITUTION’S framers sought to create a democratic system of government that would be least inclined toward “loose fiscal policy.” But if that system of checks and balances did not prevent unsound spending from the public treasury, it was their hope that “We the People,” as the ultimate guardians of the public fisc, would remove those who abused the public trust. Despite some major lapses over 213 years, the Constitution and the people, in their role as fiscal guardians,

have worked to maintain sound fiscal policy as well as has any system of human government in history.

The drafters of California’s original constitution in 1849 embraced a similar faith in the people’s collective common sense and fiscal responsibility when they provided that every legislatively-proposed debt of the state in excess of \$300,000 had to be approved by a majority of state voters and that state debt can be incurred only for limited purposes (Article XVI, Section 1, California Constitution.)

In the ensuing 155 years, for the most part, that

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*M. David Stirling is vice president of Pacific Legal Foundation ([www.pacificlegal.org](http://www.pacificlegal.org)), a public interest legal organization headquartered in Sacramento. He previously has served in principal positions in each of the three branches of California state government. (Email: [mds@pacificlegal.org](mailto:mds@pacificlegal.org).)*

faith in the people as fiscal guardians has been justified. More recently, many California voters seem to have put the collective common sense and fiscal discipline the early framers expected of them on the shelf. By supporting ballot measures that directly tap public monies to benefit and advance privately-sponsored causes, they validate Professor Tyler's thesis that "loose fiscal policy" results when "voters discover they can vote themselves largesse from the public treasury."

**I**N RECENT elections, special private interests have sponsored, and engaged skilled political marketing consultants to persuade voters to approve, initiative measures that bestow vast sums of public money on beneficiaries designated by the sponsors. The formula for achieving success in these new-age ballot ventures contains two elements: one, a sympathetic cause that voters cannot resist supporting, and two, an unpopular or politically-impotent target as the designated source of funding. An unpopular target would include a disfavored industry, while an impotent target would be a small class of unsympathetic taxpayers, or, a favorite: the unrepresented and virtually invisible class known as "future taxpayers."

- Proposition 10 of 1998, which originated this formula, was unprecedented in California history. Authored and qualified for the ballot by Hollywood celebrity Rob Reiner and titled "The California Families and Children First Act," the measure declared that a child's first three years will influence the quality of their entire lives, and that young children's well-being is endangered by exposure to tobacco, drugs, and alcohol. Reiner's initiative imposed a 50-cent surtax on every pack of cigarettes and tobacco product sold in California to fund enhanced early childhood development programs and services.

While Reiner and his politically-astute friends understood that Proposition 10's passage would usher in a whole new age in special-interest public-spending initiatives, the only thing most majority voters knew or cared about was that the measure would benefit poor children and their families, and that a tax on the bad habit of tobacco company customers would pay for it. From a voter's standpoint, it offered a "win-win" opportunity.

A minority of voters were skeptical, however. While concerned about California's young children, they were also bothered by Proposition 10's fiscal implications. \$700 million of annual revenues expected to be generated by the 50-cent cigarette surtax would be apportioned between 59 politically-appointed

## *Jaw, jaw, jaw*

And so it's farewell to Tom Brokaw,  
The anchor with the cute little speech flaw,  
But just like Dan Rather  
We won't miss his blather  
For still there's Pete Jennings to jaw, jaw, jaw.



It's just not enough that we pan  
The corruption of Kofi Anan  
Instead we should toss  
The UN's crooked boss  
Clear out in the street on his can.

— by Joy Skilmer\*

commissions — one at the state level and one in each of the 58 counties. Because the measure provided only vague guidance on how early childhood development programs and services could be promoted by the commissions, the annual allocation of huge sums of public money could be spent by the commissions in any manner remotely touching on early childhood development; or, the funds need not be spent at all.

**R**EINER DELIBERATELY drafted Proposition 10 so that no public official or body accountable to the voters — neither the governor, the Legislature, nor the 58 county boards of supervisors — held oversight responsibility for how the commissions operated or utilized the funds. Practically speaking, these political bodies were autonomous, free-floating, unaccountable creatures operating outside the state constitution's historical checks and balances as required of every other state government agency with authority to spend public funds.

So how has Proposition 10 fared in the six years since passage? A November 14, 2004, *Los Angeles Daily News* article reported a recent state audit's finding that Los Angeles county's Prop 10-commission had spent only 15 percent — nine percent being administrative

\* *The political verse of Joy Skilmer, né Lyn Nofziger, is available at both Barnes and Noble.com and Amazon.com and from MND Publishing, 573 Marina Rd., Deatsville, AL 36022. Keep up with Lyn's "musings" at: [www.lynnofziger.com](http://www.lynnofziger.com)*

expenses and travel — of the \$820 million in tobacco taxes allocated to it over the past six years. That leaves nearly \$700 million presumably sitting in bank accounts in the L.A. County commission's name waiting to be spent by its largely-unaccountable members.

**I**N FACT, just last summer several high-profile commission members resigned following a dispute between county supervisors and Reiner himself, who has consistently sought to reduce accountability by limiting involvement of elected officials. The *Daily News* reported that "(s)imilar problems have arisen elsewhere in the state in managing the \$3.4 billion the proposition has raised." Not only is Proposition 10 an invitation to mischief with public money, it is a classic example of voters "voting themselves largesse from the public treasury."

• Proposition 63 of 2004, the Mental Health Services Act. Few people would disagree that we have a problem when, as Proposition 63 declares, "more than two million children, adults, and seniors in California ... [are] affected by a potentially disabling mental illness every year." Before he became the chief proponent of this initiative, Assemblyman Darrell

Steinberg, D-Sacramento, looked for state money to strengthen mental health services statewide. Reminded that he and his spendthrift colleagues had, between 1999 and 2003, spent the state into a \$38 billion accumulated debt that would take at least 30 years to pay off, he remembered the successful Proposition 10 formula of 1998. He already had a good cause; all he needed was a funding source.

Then Steinberg thought: who would object to requiring the state's estimated 25,000 to 28,000 millionaires to pay an additional tax to fund mental health services? With the number of reported millionaires in California dropping from 44,000 in 2000 to 29,000 in 2002, millionaires were an increasingly impotent group. And who cares that no rational connection exists between millionaire status and mental health programs?

With a sympathetic cause and a well-heeled, but isolated, funding source, Proposition 63 passed easily. It tacks an additional one percent surcharge on California taxpayers with annual taxable incomes of more than \$1 million. It is expected to raise \$634 million in 2005 for mental health programs and services at the county level. But if California's onerous tax burden continues to drive millionaires out of the state, more than the mental health programs and services they fund will be hurt. The ratio between the number of high-income earners and low or no income persons (often public benefit recipients) will be further reduced, a prime ingredient of a loose fiscal policy.

• Proposition 71, the California Stem Cell Research and Cures Act just passed by voters was also patterned after Proposition 10, except that, instead of imposing a tax, it requires the state to sell \$3 billion in long-term general obligation bonds to fund stem cell research. With an appealing title and high-profile endorsements from Hollywood celebrities with nervous-system injuries (like the late Christopher Reeves) and illnesses (like popular actor Michael J. Fox), Proposition 71 was in a class by itself as a sympathetic cause.

So appealing was Prop. 71's cause, apparently, that even as he toils to lead California out of the greatest fiscal debacle in any state's history, Governor Schwarzenegger endorsed the measure. In doing so, he disregarded its \$6 billion (including interest) loan price — a further debt that "future taxpayers," not Proposition 71 sponsors, will be repaying for the next 30 years. It is not unfair to ask: if the governor, whose political future depends upon his guiding California through the maze of indebtedness that now threatens it with bankruptcy, chooses not to separate the meas-



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ure's sympathetic cause from its large drain on the state's already overburdened general fund, why should his big-spending political opponents in the Legislature feel any obligation to cut spending?

These measures pretty well guarantee that California voters will see more of this Prop. 10 formula in future elections. To the extent that we allow ourselves to be seduced by sympathy for the cause rather than

questioning the fiscal soundness of its funding, we will find ourselves on a slippery slope, choosing willy-nilly between many sympathetic causes vying for our vote. With that prospect staring us in the face, it is crucial that California voters take down from the shelf the collective common sense and fiscal discipline the early framers expected of us as the ultimate guardians of the public treasury.

CPR

## THE LAW

# Goodbye, Janice Brown?

*GOP U.S. senate gains could mean the left's game of judicial appointments obstructionism is up, but also that California will soon lose its best judge.*

H A R O L D J O H N S O N & T I M O T H Y M . S A N D E F U R

ONE RESULT of November's senate elections across the nation is that a vacancy could soon open on California's Supreme Court. Last year, in their scheme to sideline Bush judicial nominees with the most star power and brain power, Democrats refused to allow an up or down vote on California Supreme Court Justice Janice Brown's nomination to serve on the U.S. Court of Appeals for the District of Columbia. But with the Republican majority now expanded — and some "Red State" Democrat senators probably spooked by the defeat of the filibusterer-in-chief, South Dakota's Tom Daschle — don't be surprised if the ice starts to break on some of the nominations that have been consigned to deep freeze.

Some might question whether moving from California's supreme court to the federal appellate bench should be called an "elevation" because the Golden State's high court is the final word on litigation of major importance in the nation's largest state, and on many legal issues it has been a trendsetter for the judiciary at both federal and state levels. All the same, if the Democrats stop their stalling and show her the respect she is due, congratulations are in order for Justice Brown.

But her departure will be a loss for the law in Cali-

fornia. This daughter of an Alabama sharecropper, a black woman who grew up in the segregated South and put herself through law school in California, offers a compelling testament to the opportunities America offers for people with character and a can-do spirit.

But the lessons to be derived from Justice Brown's service on the bench go far beyond her impressive personal story. Those who study her opinions will gain valuable insight into the judiciary's proper role in a government system that is supposed to be dedicated to individual rights.

According to conservative boilerplate, a judge's task is to apply, narrowly, the written law and resist temptation to become a policymaker. Brown's understanding is more expansive. Although she regularly insists that courts are not, indeed, to behave like legislatures, she rejects any notion of the judge as a robotic strict constructionist. In her jurisprudence, courts should function, first and last, as defenders of freedom.

CONSIDER HER dissent last year in *San Remo Hotel v. San Francisco*, a case that upheld the heavy fee that San Francisco exacts from residential hotels if they seek permission to convert to tourist use. Brown expressed concern that owners of these small hotels were "a relatively powerless group" who had little influence with the political authorities. The city had simply declared that

*Harold Johnson and Timothy M. Sandefur are attorneys with Pacific Legal Foundation.*

either they would continue serving a transient population or, if they insist on becoming hotels for tourists and businessmen, pay into a fund for the homeless. As Brown saw it, singling out these small hotels for this social-welfare duty amounts to an unconstitutional taking of private property for public use. The Fifth Amendment, she observed, prohibits government from forcing “some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”

**B**ROWN WRITES with a flair that can delight laymen and law students while disgruntling stodgier observers. In her *San Remo* dissent, she turned the full rhetorical force on the power-tripping bureaucrats in the City by the Bay:

“Private property, already an endangered species in California, is now entirely extinct in San Francisco,” she observed. The City had become a “neo-feudal regime.” She reprimanded fellow jurists who automatically give a pass to confiscatory land-use restrictions. “Once again a majority of this court has proved that ‘if enough people get together and act in concert, they can take something and not pay for it.’ But theft is theft. Theft is theft even when the government approves of the thievery.”

In one of the few uses of the word, ever, in the history of American case law, Brown called San Francisco a “kleptocracy.” She excoriated the city’s refusal to acknowledge that “the free use of private property is just as important as ... speech, the press, or the free exercise of religion.”

Brown’s judicial philosophy amounts to what is sometimes called the “Madisonian” view, because it reflects the allegiance to higher law and transcendent rights embraced by the “Father of the Constitution.” Not everything is open to majority rule, and courts must ensure that the majority does not run roughshod over groups that are unpopular or lack political power. As Brown put it in another dissenting opinion, “Courts must be especially vigilant, must vigorously resist encroachments that heighten the potential for arbitrary government action.” This principle, inevitably, leads back to matters of race.

In a case involving some of the most extreme police tactics ever sanctioned by the state’s Supreme Court, Justice Brown’s dissent went squarely to the issue of racial justice (and in the process displayed a skepticism of government power that sets her apart from conventional conservative jurists). *People v. McKay* involved a police officer who pulled over a bicyclist who

was riding against traffic. When the rider failed to produce a driver’s license or other identification, the officer arrested and searched him. Justice Brown noted that it is not illegal to ride a bicycle without identification, and riding the wrong way on a bike is “such a minor offense that it hardly seems worth the officer’s time to issue a citation.” The Court’s decision upholding the arrest and search, Brown concluded, stretched the Fourth Amendment’s protections to the breaking point. “If full custodial arrest is authorized for trivial offenses, the power to search should be constrained,” she wrote.

But then Brown took a step back to look at the issue more broadly. She believed the Court was ignoring an obvious and troubling issue: broadening police discretion threatens to perpetuate racially discriminatory police practices: “I do not know Mr. McKay’s ethnic background. One thing I would bet on: he was not riding his bike a few doors down from his home in Bel Air, or Brentwood, or Rancho Palos Verdes — places where no resident would be arrested for riding the ‘wrong way’ on a bicycle whether he had his driver’s license or not. Well ... it would not get anyone arrested unless he looked like he did not belong in the neighborhood.”

Janice Brown’s belief that no one should be treated less equally because of skin color is recorded most ringingly in *Hi Voltage Wire Works v. San Jose*, a 2000 case that involved Proposition 209, California’s constitutional amendment banning race and sex favoritism by government. At issue was a city public-works program that required applicants for contracts to engage in special “outreach” efforts to contact disadvantaged subcontractors — not on a colorblind basis, but targeting racial minorities. All seven justices agreed that Proposition 209 bars such color-coded schemes in the awarding of government contracts. The court issued four separate opinions that expressed the point with varying degrees of clarity and conviction. By far the strongest, however, is Brown’s, the court’s main opinion, in which she was joined by three other justices. She gave Proposition 209 a broad and forceful reading, interpreting it to outlaw not just explicit quotas but also race and gender “goals,” because “a participation goal differs from a quota or a set-aside only in degree.”

Brown set the measure in historical context, hailing it as a statement of the venerable rule that no one should be treated better or worse than another on account of race. She quoted the late Yale Law School Professor Alexander Bickel: “[D]iscrimination on the basis of race is illegal, immoral, unconstitutional, in-

herently wrong, and destructive of democratic society.” The U.S. Supreme Court had veered from this principle, Brown noted; Proposition 209 represents a decision by the California electorate to return to it, reasserting a goal of “equal opportunity for all individuals” rather than “entitlement based on group representation.”

Brickbats flew from some law professors who accused Brown of rhetorical overkill or addressing U.S. Supreme Court cases that weren’t directly at issue. But studying her opinion will reward any student of the great issues of race and equality in American history. It offers an elegant historical synopsis — and underscores why California was right to reaffirm the principle of colorblind equal rights in its own Constitution.

Justice Brown is committed to racial equality be-

cause she is committed to individual rights, and to protecting individuals, of all colors, against government abuse, even when the abuse is based in a popular consensus. Just as the small hotel owners of San Francisco should be free from unjustified government coercion, and no contractor should be denied business because of race, so Mr. McKay should be free from arbitrary exercises of state power. Since many small entrepreneurs are members of racial minorities, protecting business against intrusive government meddling is more relevant to their welfare than most of the incendiary causes in Jesse Jackson’s bag of tricks.

When Justice Brown leaves for D.C., Governor Schwarzenegger will have a big challenge: To find a replacement equally intelligent, eloquent, courageous, and committed to limited government and the judiciary’s role as a guardian of our rights.

CPR

## ON CAMPUS

# It’s the Future, Stupid

*Republicans, finally targeting Hispanic voters, have begun to break one Democrat stranglehold. It is time to do the same for young voters.*

M I C H A E L P . D A V I D S O N

**J**OHAN KERRY’S campaign targeted America’s youth vote (generally considered to be eligible voters up to age 29 or 30), and with good reason. The 4.6 million Americans in this category who trooped to the polls (literally or using absentee ballots) helped keep the election close. Republicans neglect the significant potential of this voting group at their peril.

The Kerryites clearly considered young voters part of their base, so much so that, if anything, they overestimated their potential impact. “A lot of people thought the youth vote would be the swing vote in the election,” Rock the Vote’s Jay Strell was quoted as saying by the *Los Angeles Times*. “They weren’t, but they made it much closer than it would have been otherwise in some states and won some battlegrounds for Kerry.” Depending on which polls you consult, Kerry captured young voters’ support by from 9 to 11

points nationally. As with most of the electorate, the intense passion generated by this election and a heavier-than-usual emphasis on turn-out brought about an upsurge in voting by those 29 or younger from 15 percent of the electorate in 2000 to 20 percent last year.

John Kerry, like most Democrat candidates, has one indisputable built-in advantage in courting these voters: the nation’s higher education establishment remains firmly left-wing and shows little hesitation in using its position to influence students’ political views. But beyond that, I think Republicans overestimate the lock the left has on young Americans, and so, as with too many other voting groups, the GOP tends needlessly to write off young voters, perhaps content to await the day when, after they have moved on from the campus and gained a little experience of life, reality will stream into their previously shuttered minds leading them to switch the “D” to an “R” in their voter registration forms. But why wait for that? Young people aren’t lefties by birth (notwithstanding the old saw that “if you aren’t liberal at 18, you have

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*Recent University of California, Berkeley, graduate Michael P. Davidson is serving his second term as state chairman of the California College Republicans ([www.collegegop.org](http://www.collegegop.org)).*

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no heart; if you aren't conservative by 35 you have no head"). Young people with plenty of heart every year enter the universities heartily patriotic, religious, pro-family, and devoted to American freedom. Then they receive an unrelieved barrage of anti-American, anti-God, anti-family, and pro-socialist indoctrination delivered by authority figures in a position to issue grades that can affect the future direction of their lives to a significant degree. By comparison, the messages they receive reaffirming the ideas and beliefs that shaped their lives before college are relatively few and far between.

**T**ODAY'S LEFT-WING Democrat politicians tacitly affirm that their task is one of directing young Americans *away* from their native political predilections by courting them with all the dishonesty they bring to voter persuasion overall. Consider the now-notorious draft scare Democrats staged to try to win over potential student voters. It began with a *Democrat*-sponsored bill to reinstate the draft introduced in the U.S. House of Representatives. The bill was initially ignored for lack of any real interest in it, but eventually it was brought to a vote and obliterated 402 to 2 on the House floor (not even its author, if I recall correctly, supporting it) in order to let the air out of a Democrat campaign to raise fears among students that they might be drafted if Bush were re-elected.

Along the way, MTV/Rock the Vote Internet postings showed fake draft induction cards "signed" by Defense Secretary Donald Rumsfeld with the nearby words: "this could be you." California College Republicans protested this blatantly false, scare-mongering operation in a late-October demonstration at MTV Networks in Santa Monica. Our release quoted me, as CCR state chairman, saying that "the draft is opposed by the House, president, vice president, and defense secretary," and asking "from where do they expect the draft to come? MTV/Rock the Vote and John Kerry are lying to my generation to scare us into submission, all the while dishonoring our troops by using their service as an instrument of fear." The draft-scare dirty trick presumably appealed to Democrats' left-wing sense of fair play, but also served as an admission that the truth was not their friend in appealing to youth. Why *mislead* when you can lead?

Republicans, in contrast, *are* in a position to lead young voters with the truth, but too often fail to make use of the opportunity. The Republican Party and its candidates could address young voters directly

with media spots placed during sitcoms popular with the kids (or on MTV) that featured young people addressing issues young people care about. These are not particularly obscure: social security reform, health savings accounts, tax cuts, the economy, and even the war on terror. These issues all represent real opportunities for Republicans to win the support of America's next generation. The Party has finally begun broadcasting Spanish-language ads on a national scale; it's now time to move along to target young voters as well. (By the way, Bush lost the Hispanic vote by about the same margin he lost the youth vote and Hispanics make up a smaller portion of the voting age population.) Any voting bloc would respond positively to ads featuring young, popular, enthusiastic faces bringing messages of hope about the future. The GOP should begin producing and airing them.

In addition to broadcasting effective messages, to capture and engage young voters the Republican Party will need stronger student-targeting organization. 2004 ushered in a new era of primary emphasis on carefully planned and coordinated political efforts to register voters and to make sure they vote. Yale University Professor Donald Green told the *Times* that "the enduring legacy of the 2004 election is to demonstrate the potency of voter mobilization efforts. Now that both parties have seen how this can work, we can expect it to be a staple of elections from here on out."

Organizing young voters begins with understanding some relevant parameters. The youth vote is composed of two quite different voting blocs: 18-to-24-year-olds (students) and 25-to-30-year-olds ("young professionals"). One bloc is just starting college, the other is beginning to build a career and a family. The Bush Campaign wisely broke its youth effort into "Students for Bush" and "Young Professionals for Bush." Each bloc has plenty to offer a presidential campaign, but the 18-to-24-year-olds offer the most in terms of votes, volunteers, enthusiasm, and the chance to shape the Republican Party's future. The college-educated are invariably going to be tomorrow's leaders. The downside is that this 18-to-24-year-old group confronts peculiar challenges in qualifying to vote and actually voting. College students are extremely mobile and tend *not* to go to school where they live (and are or could be registered), so staying on top of voter registration can be a problem. Also, turning out young voters takes a strong campus canvass, but colleges and universities discourage GOTV with a multitude of rules and regulations regarding walking the dorms. And, of course, students are short on life experience, so particular issues often fail to res-

onate with them and they are inclined to disengage. Finally, there's all that influence from lefty professors, MTV, and lefty entertainers trying to brainwash a generation into a cynical view of America.

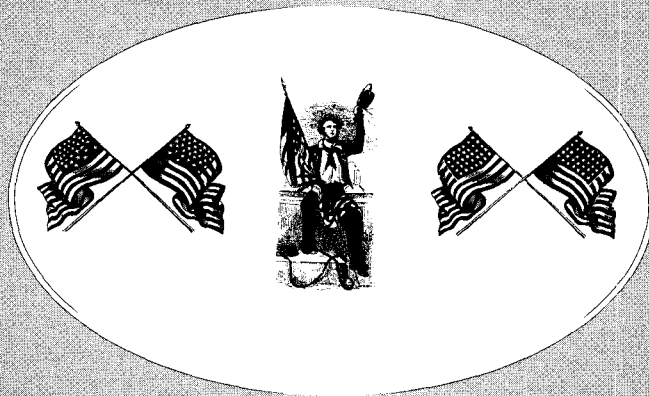
But College Republicans are showing the job can be done by genuinely dedicated believers in Republican ideas and values. (CRs certainly aren't involved *disingenuously*: grades and social lives often suffer for outspoken Republicans.) College Republicans are trained. They have their tables on campus for volunteer and voter recruitment. They have a voice for voter education. And some Republican Party entities and campaigns are making use of them. Minnesota's Republican Party state chairman, national committeeman and committeewoman, and executive director recently wrote to state party leaders to say: "Throughout the last five years, something incredible has happened in Minnesota. Thousands of young people have joined our Party at all levels. This new wave of youth and energy has been generated by our College Republicans .... in 2002, we invested more than \$30,000 in College Republicans. It was one of the best investments our state party has ever made. The organization the CRs built with that money delivered for our Party thousands of students' votes, produced tens of thousands of volunteer hours, and brought a new wave of energy and excitement into the Republican Party of Minnesota. Without the College Republicans, the Minnesota GOP would not have been one of the most successful state parties in America in 2002. In this important year, we strongly encourage you to consider a similar investment in your state's College Republicans."

**I**N CALIFORNIA, local College Republicans turned out to work countless hours for the Abel Maldonado for [state] Senate campaign. CRs joined the Monterey County GOP and the Maldonado team to sponsor a GOTV weekend heading into Election Day. The sponsors rented a motel in Monterey County, a battleground. It was Maldonado's weakest area, showing a 13-point voter registration deficit (translating into about 13,000 votes). To make matters worse, the Democrats dumped more than \$2 million into the race. But an investment of slightly more than \$11,000 brought more than 130 College Republicans from across the state — from San Diego to Chico — to work for a weekend. Through walking and phoning, they contacted more than 35,000 voters. In the end, Monterey outperformed every other county in the district, Maldonado winning there by one point. It's the future, stupid.

CPR

**-A-  
CAMPAIGNER'S  
-DIARY-**

*by  
Bruce L. Bialosky*



**Oregon or Bust!**

**A**s the plane touched ground at Portland International Airport, I was left to wonder how, after making my first visit to Portland just a mere three months prior, I was now going to be spending the last 17 days of the 2004 presidential campaign trying to win Oregon for George W. Bush.

I had come to Portland in mid-July on a daddy-daughter

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*Bruce L. Bialosky was the Bush-Cheney '04 California chairman for Jewish Outreach. You can read his blog at [Bialoskydialogues.blogspot.com](http://Bialoskydialogues.blogspot.com).*

weekend. We had chosen the city based on some relationships we had with natives and former residents. Portland is a city known for roses; thus, the name "The Rose Garden" for its sports arena. It is also known for a bookstore which may be the largest independent bookstore in the world: Powell's. I speculate that this store, which occupies a full city block, was the genesis of Jeff Bezos' idea for Amazon.com. In addition to being one of very few places with a three-door elevator, it is a center of cultural expression in Portland.

**W**e soon became acquainted with the atmosphere of the city. If it gives you any indication, my then-13-year-old daughter inquired of the waiter at our first dinner as to whether everyone in Portland had a tattoo. One of the high points of Portland culture is the Saturday Market. A visit to this long-established flea market made it clear that Portland was a retirement area for '60s hippies living in the past. The vendors and their merchandise had the feel of a Grateful Dead concert from years gone by.

Now back in Portland for Bush, I collected my luggage and, as I went to my rental car, I realized that in my haste to prepare for the trip and arrange for a team to come with me I did not take sufficiently into account that my location had changed. We were now assigned to work in the county *adjoining* Portland: Clackamas County. The short, 20-minute drive took me to a place so different from Portland that if the people did not speak the same language, you would believe you'd entered a separate country.

I was first to arrive of our group of 15 Jews from California. I had arranged for my team to join me in Oregon after it became abundantly clear that the California Bush campaign was meager at best and that the state would not be contested seriously. A distinct flavor of despair had again descended on my home state, even though California was one of only 21 states with official Bush campaign staff. The level of staffing and the absence of surrogate visits verified that the campaign had decided its resources would be better spent elsewhere. Even so, I kept our departure hush-hush to avoid indicating that California was not "in play."

With so much media focus on Ohio, Florida, and Wisconsin, the folks I recruited to join me frequently asked: why Oregon? I always answered: "Politics is a team sport. The leadership said go to Oregon, so that

is where we are going." In addition, I always saw the race as an effort to garner a majority vote for President Bush. I felt the country and this president clearly needed a decisive victory, which included a majority of the popular vote. I did not want to hear the whining that would follow another plurality presidential election.

When I arrived at the Clackamas County headquarters, I was greeted by a young staffer, Steven Fox. He had interned at the White House and had just been given the assignment to get new headquarters up and running. I told him (and everyone else) that our team was there to do whatever it took to win Oregon for George W. Bush. If that meant shoveling manure, we would do that in our fancy Beverly Hills loafers.

I soon came to understand my trip's *raison d'être*. Told to hop in a car to go pick up vans with the other volunteers, we wound through a part of Portland unknown to me and arrived at a warehouse full of vans — more than 30 of them. Bush-Cheney had rented them to ferry volunteer precinct walkers to be deployed throughout the Portland area during the next 17 days. I was euphoric: this was to be a real campaign with real dollars spent to wage an effective battle. My high spirits accelerated as our five vans rolled out to return to Clackamas headquarters.

Soon after this, I encountered Bush campaign volunteer Peggy Simmons. Peggy was typical of a lot of volunteers: she drove an American-made SUV, spoke the plain English of non-gentrified America, and gave every appearance of being your basic homespun, middle-class American. But then I found out her father is Olaf Rove, brother of Karl Rove's dad. She was a legit first cousin of the man the president calls "the architect of the campaign." It taught us city folk not to pass judgment on the apparently "unsophisticated" locals.

**T**he hot issue in Oregon was Proposition 36, a proposed state constitutional amendment declaring marriage to be between one man and one woman. Clackamas was a center of support for this amendment which was awakening religiously observant voters to get involved in politics. The interaction between our Jewish group and the Christian volunteers was like a woven cloth, making our experience much more fulfilling. It came in handy, particularly when I was asked to help erect and secure a rather large yard sign. I, like most Jews, have not used a sledge hammer since we built the Pyr-

amids (for which we are still seeking proper compensation). Our gentle friends saved my fanny as I meekly stood by and supervised.

The well-run Prop. 36 campaign employed the slogan: one man — one woman, effectively divorcing the issue, I thought, from charges of being anti-homosexual, though I am confident the Gay Lobby would not agree. Because Oregon is considered a fairly liberal state, homosexual “marriage” proponents thought that of the 11 states voting on similar propositions it represented their best shot to win. But they were wrong: the measure passed with 56.7 percent of the statewide vote. The only county to vote against it was Multnomah, home of Portland.

**A**s part of my “do whatever it takes” policy, I enlisted to help pick up some chairs from a used furniture store near the Multnomah County Republican Headquarters. When we arrived, we saw workmen replacing an oversized front window at the headquarters. This appeared to be another in a string of violent acts perpetrated against Republican headquarters nationally. A handwritten sign in front of the offices pointed out the intolerance of the political organization (Democrat) that holds itself up as the “tolerant party.”

We worked from 9 a.m. to 9 p.m. daily, rarely taking time off. Though I am a rabid baseball fan, we skipped the now-famous Yankee-Red Sox series until game seven. It was not sophisticated work. We did campaign basics. No speeches; no articles. It was one-to-one political contact either through phoning or precinct walking.

Oregon has no polling places. Ballots are mailed out October 15 and have to be delivered back by 8 p.m. election night. They can be mailed or dropped off at the local library. As election day edged closer, we stopped suggesting that people mail their ballots, instead advising them to drop them by the library. This gave me an opportunity to exhort voters to check out a book. What a great scheme: vote and expand your mind at the same time.

My insistence on listening to liberal Air America Radio whenever we were in the car drove my team crazy, but I like to know what the other side is saying (I suffer through the *Los Angeles Times* daily). I wanted to hear the left’s message in the election’s waning days. The talk was inflammatory (which conservative talk show hosts can also be), but what struck me more was the commentary by high-placed Democrat of-

ficials — People like Harold Ickes and Howard Dean — on the airwaves calling Bush and company liars. Their hyperbole fed an election frenzy among their listeners, who now suffer from PEST (post-election selection trauma).

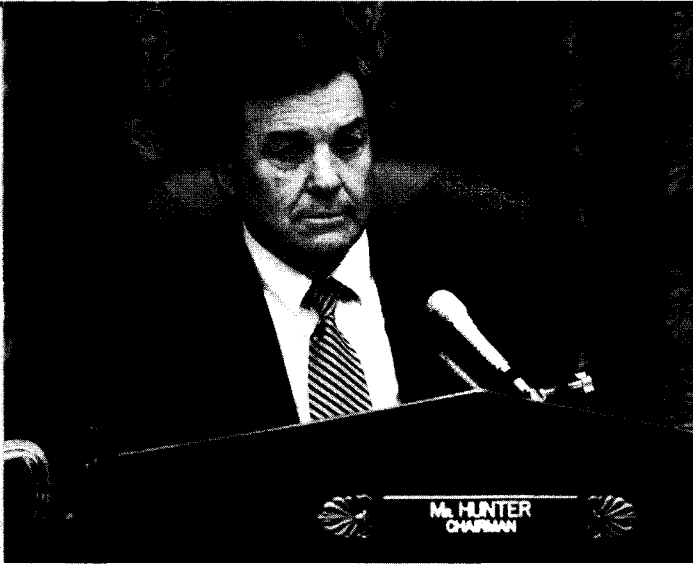
As we arrived at the last weekend, my 15-year-old son came up to work on the campaign. Saturday nights are a little challenging for phone banking, so we took the night off and my son and I went out to see Portland. This turned out to be my only trip to Portland proper. I took my son to see Powell’s Books and for a dinner with the city’s elite. The most electrifying experience of our trip occurred during this visit to the city. As we exited Powell’s, a woman walking next to us just starting talking to us as we went to our cars. She stated that the people in Portland were cold. She had lived in Portland for many years, moved to the South and then returned for a visit. I turned to her and stated it was because they were all leftist. She was initially taken aback. Then she said, “You know they are soulless,” which I took to mean they did not practice religion or believe in God. In this four-minute conversation, with two people she had never met before, this woman had an epiphany. She indicated with mixed feelings she had voted for Kerry. I assure you, she will be voting Republican in the next election after spending four more years in the hospitable, red-state South.

Back with the warm-hearted Clackamas County volunteers for the finals days, we saw all the elements of a fever-pitched campaign. The crowds poured in, including even a group of women from San Francisco shipped in for the last lap. We worked every hour, trying to close the small, 6,700-vote gap we had lost by in 2000.

On election day I left to come back to California. We did not win in Oregon, but we did win Clackamas County. It showed me that if we commit resources here in California and organize with the same fervor, we have the opportunity to turn our state around. In the euphoria of President Bush’s reelection, I was saddened by our dismal results in my home state. Republicans have the ability and the funds to battle for California, but to win in 2008 we must start now with proper leadership and execution. As the nation’s majority party, we cannot continue to give away the largest state in the union.

For now, I am happy to be back where I can wake up with sunshine almost every day. I just want to see those vans rolling out in Van Nuys in 2008 to win the votes necessary to elect a new Republican president.

OPR



# Duncan Hunter 'Lone' ranger no more

The president's intelligence reform bill could have imposed a command structure on our soldiers in the field that only a left-winger could love. Fortunately, California's 52nd district congressman came forward to face down the bad guys.

William E. Saracino

**W**hen Congressman Duncan Hunter served in Vietnam with the 173rd Airborne and the 75th Army Rangers, it is likely that he was used to parachuting into dangerous situations or at times being a Lone Ranger fighting the bad guys. That experience stood him in good stead in the recent kurluffle over President Bush's intelligence reform bill.

Hunter, chairman of the House Armed Services committee, and Jim Sensenbrenner, chairman of the House Judiciary Committee, led conservative opposition to the bill as it was reported out of the senate, rounding up enough like-minded colleagues in the House to halt its passage, for which we should all be thankful.

Sensenbrenner's objections had to do with illegal immigration, while Hunter's centered on potential armed forces "chain of command" disruption by the new "intelligence czar." These concerns were well

founded. Under the senate-passed bill, command decisions of the armed forces could be directed through the new intelligence bureaucracy before being communicated back to commanders in the field. For example, a commander in Mosul might receive fresh intelligence that the terrorist high command was meeting at an oasis outside of town. He might then wish to request satellite reconnaissance of the area to confirm the information before sending his troops out to disrupt the meeting and capture the terrorists. Under the provisions of the senate-passed bill, the request for use of the satellite would proceed up the armed forces chain of command, then be sent over to the new intelligence agency to work its way up to the "czar" for his approval, then be shunted back to the Pentagon for transmittal back to the field commander. Not exactly a "real time" process. As one general said, commenting on how long a simple request for a satellite photo could take to be approved, "by the time all that happened, the French would be our friends again."

Hunter realized the danger in this Rube Goldberg

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arrangement, and set about informing his Republican colleagues of the problem, convincing enough of them along the way to stop passage of the final bill. Readers old enough to remember Vietnam may recall the endless mischief caused by a similar chain of command arrangement constructed during Lyndon Johnson's administration extending all the way to Washington and often involving the president himself meddling in even the most routine or minute decisions to be taken by the troops on the ground. Political expediency and the relatively trivial self-interests of office holders often intruded where the safety of our men and the success of the mission should have excluded everything but sound military practice. Paranoid liberal ideology intruded as well. Johnson's left-leaning team feared and mistrusted the military and spoke of the necessity of avoiding any outbreak of "right-wing war hysteria" (*i.e.*, popular patriotic enthusiasm for a noble effort to win freedom for oppressed people). The whole thing had to be micro-managed to death lest some intolerable transgression of 1960s-era political correctness occur. So self-doubting, hamstrung, and befuddled a military campaign could not fail to end in disaster, which is just what Vietnam became.

**D**uncan Hunter's success in blocking the imposition of an unworkable, politically vulnerable framework on ground troops and professional soldiers thus, predictably, caused the Democrats and the liberal media to react with shock and awe. These well-known fonts of concern for President Bush and his legislative agenda suddenly found themselves agog at the impudence of House Republicans blocking "their president's" preferred bill. Anyone care to bet that this is the first time in Bush's first term that the Democrats or major media have been found rooting for a Bush-supported bill? Or that it won't happen at all in the second term?

The usual suspects among the op-ed blatherers and nightly cable network political shout-fests warned darkly that if the courageous band of House conservatives didn't roll over on the intelligence bill, the president's entire second term legislative program would be imperiled.

Forget for a moment that this was a unique piece of legislation being considered by a lame duck congress whose membership would change in January. Think rather of the Democrat/media hypocrisy — of the people who have savaged Bush for four years, particularly the last 12 months — suddenly insisting the

House enact something he supports, immediately and with no further changes.

The uproar was partly a matter of the Democrats and the media hopping on any opportunity to portray Bush as weak. It was also partly a throat-clearing exercise for the professional whiners who, since November 2, have had to remain relatively quiet and introspective and who, no doubt, welcomed a chance to get off the defensive. Another part was reflexive resentment of Hunter and Sensenbrenner, two highly-visible principled conservatives (both have 90 percent-plus lifetime American Conservative Union ratings), emanating from the far-left politburos in command at the House Democrat caucus and old-line media. But a fair-minded person might also conclude that part of it was that the Democrats and the media knew that the bill, if passed unaltered, would weaken both the armed forces chain of command and its ability to gather and use field intelligence in a timely fashion.

In the end, though, the Democrats and the media spouting heads were no match for old soldier Hunter. Having, in Vietnam, battled enemies armed with guns, he was more than prepared for foes brandishing nothing more than hot air and pompous posturing. He held his ground, eventually procuring substitute language from the White House that preserved the chain of command.

The Democrats and the media, trying a little "cya" action, now say Hunter won nothing more than a fig leaf from the White House. But independent analysts dispute that, contending Hunter won exactly what he wanted: keeping these key decisions in the Pentagon, cutting the new intelligence bureaucracy out of the equation on such matters — preserving the military chain of command. The Cato Institute, for one, describes the new language as "a complete victory" for Hunter.

As director of the Gun Owners PAC in 1980, I took a chance and invested in the long-shot campaign of an attorney and Vietnam Vet running for congress against an entrenched San Diego incumbent. Duncan Hunter has made me proud of my decision hundreds of times in the course of his service in congress, never more so than through his principled fight on the intelligence bill.

A month from now, let alone a year from now, this dust-up will likely be forgotten. But *many* years from now, American front line soldiers will continue to benefit from Hunter's tenacious defense of their interests. America's fighting forces have no better friend than the gentleman from San Diego.

CFR



GOP activist. "He was Gray Davis's appointee to head the Air Resources Board." The strategist said this appointment conforms to a pattern of tough, pro-free market talk by the governor undercut by placement of liberal Democrats in key administration posts affecting the state's business climate. He said another example was the November appointment of long-time union organizer and Democrat legislative staffer Patrick Henning as director of the Employment Development Department. Addressing the Republican National Convention, Schwarzenegger said "If you believe that government should be accountable to the people, not the people to the government, then you are a Republican!" A little later he said "there is another way you can tell you're a Republican," namely that "You have faith in free enterprise, faith in the resourcefulness of the American people, and faith in the U.S. economy" — statements that explain why neither Mr. Lloyd nor Mr. Henning belong to the governor's Party, but not what they are doing in his administration. "At some point," the GOP strategist said, "people become policy. The governor needs to know he cannot take conservatives for granted."

**F**or all this, the governor seems to have tied himself in rather tightly in his address. "He's given himself very little wiggle room," a Sacramento insider quipped, referring especially to Schwarzenegger's budget, pension, and redistricting proposals. The many, daunting political and policy intricacies involved in instituting a merit system for teachers' hiring, promotion, and payment — by no means the least in its importance among his reforms — may prove, in the opinion of observers I spoke with, sufficiently intractable to keep us from seeing much progress, at least in the short run. The debate, however, is now open on all four reforms and that is a lot. I'd like to consider some details about each of the four:

## **SPENDING REFORM**

The word in the Capitol is that the governor's State of the State address could have been written by Ray Haynes or Tom McClintock. That conclusion seems

certainly indisputable with regard to its outline of the state's budgeting problems.

"Last year, we had \$78 billion of revenues coming in," Schwarzenegger said. "The great news is that this year, we have \$83 billion coming in, over \$5 billion more than last year. Now that's terrific news."

"However, various budget formulas require us to spend over \$10 billion more."

"Now do the math. Our revenue increases by more than \$5 billion but our spending increases by over \$10 billion. We don't have a revenue problem. We have a spending problem" — exactly the words used throughout the post-recall debate by GOP Leaders Jim Brulte, Dick Ackerman, and Kevin McCarthy, defining the debate and making the case for the centerpiece of Republican budgeting reform: putting an end to the regime of out-of-control, auto-pilot spending; in a word: a cap.

Democrats understand the central importance of this issue. In my article a year ago ("Wide

Open Town," *CPR* Jan./Feb. 2004), I quoted the left-wing *L.A. Weekly*, which described the spending cap battle as pitting those who think of "government as a solution rather than a root problem" against "the philosophy that the best destination for a tax dollar is to remain in the pocket of the taxpayer." Republicans' 2004 drive for a cap, the *Weekly* explained, "almost succeeded in using the budget crisis to reshape the very concept of government in California for years to come. Even when the economy improved and tax revenues rose," the paper's socialist writer lamented, "the collected dollars could have gone only to a 'Budget Stabilization Fund,' for such purposes as retiring debt or tax refunds. But not for expanded services or programs." As I commented at the time: "Spending every available dollar to 'expand services and programs' as soon as 'the economy improved' was, of course, exactly how Davis and the Democrats, beginning in 1999, set California on the road to fiscal chaos."

In his State of the State, the governor placed primary blame for over-spending not on profligacy when times were good but on built-in automatic spending increases, "formulas," as he called them, such as, for instance, Proposition 98's requirement that a fixed portion of every dollar coming to the state must go to education. "The way the formulas now work,"

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# The word in the Capitol is that the governor's State of the State address could have been written by Ray Haynes or Tom McClintock.

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Schwarzenegger said, “we will never catch up. No matter how well we do, the current system is programmed to spend even more.” A little later he explained that “We could raise taxes by billions but that would only further drive up spending by billions of dollars” — an auto-pilot system accountable to no one with a built-in bias for more spending. Schwarzenegger here exposed the system’s essential rationale and appeal for the left: it makes no sense as a way to maintain orderly taxing and spending; rather its appeal is completely ideological. The “formulas” put and keep the state on the road to socialism; always bigger government, and who cares whether the specific programs or the day-to-day fiscal operations make sense? The point is to fix California inexorably on a course transferring control of our lives away from freedom toward state *diktat*, the socialist dream of gathering all economic power into its own hands so that the exercise of that power can be determined by minds (*viz.*, Democrat minds) more enlightened than those of the little people whose work merely creates the wealth. The governor objected to that ideological roadmap, and in so doing threatened, as the *Weekly* said, to “reshape the very concept of government in California.”

**T**he Schwarzenegger proposal, which incorporates features of the federal Gramm-Rudman controls on national government spending, comes in the context of several already existing GOP proposals that would do more than force across-the-board cuts when revenues drop below spending levels: they would impose a cap on spending that would operate in good economic times as well as bad. In December, Sen. Tom McClintock introduced SCA 2, a measure, as described on his Senate website, to “restore the Gann Spending Limit to where it would have been if it had been left alone after its adoption in 1979. The GF limit in 2006 is set at \$7.5 billion more than projected to be spent in FY 2004-05, thus allowing a 4.7 percent rate of increase each year over the next two years. It is \$10.1 billion less than the 11 percent annual rate of increase projected by the Legislative Analyst’s Office.” In addition, “SCA 2 provides for an automatic rebate of over-collections directly to taxpayers” and “restores the two-thirds vote requirement on any exaction unless it is for a good or service requested by the user, does not exceed the cost of the good or service, and is not required to obtain any governmental action.” This last provision overturns the notorious *Sinclair Paint* court decision that permitted simple legislative majorities to increase tax-

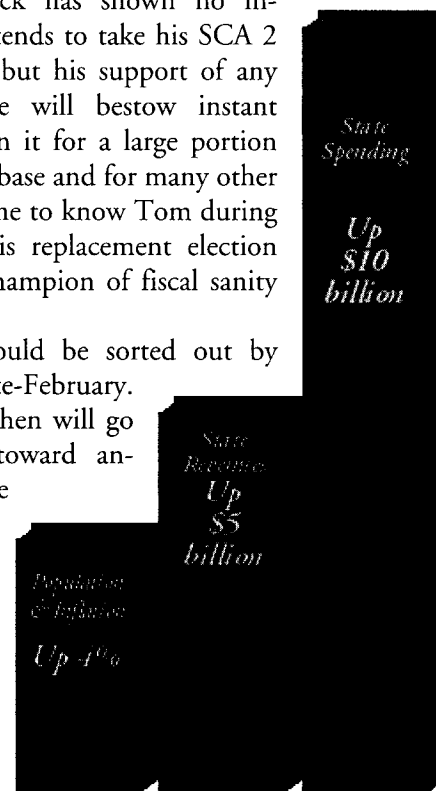
es disguised as “fees,” ignoring Prop. 13’s requirement that tax hikes receive two-thirds support.

State Sen. John Campbell has teamed up with Jon Coupal of the Howard Jarvis Taxpayers Association and Larry McCarthy of the California Taxpayers Association to submit, in five versions, the “California Deficit Reduction Act.” This proposal would limit the growth of state spending to the combined growth of population and inflation, prohibit local governments from spending beyond their available revenues, and restore the two-thirds vote rule for fee increases. The five versions are designed to permit negotiations with the governor’s office and other interested parties, presumably including Sen. McClintock, in hopes of achieving unified support for one measure to take to the voters unless the Legislature passes a genuine spending limit during the Special Session called by the governor in January — something no one seems to think will happen. Most observers I spoke with expect something to appear on the ballot, the special election one later this year if the governor calls a special, or, if not, the 2006 Primary ballot. The governor’s support of whatever ends up going before voters is key for both fund-raising and generating popular support, but the Campbell group, at this writing, plans to go ahead with one of its initiatives in any case (except if the Legislature enacts its own real limit). So far, McClintock has shown no indication he intends to take his SCA 2 to the voters, but his support of any ballot measure will bestow instant credibility on it for a large portion of the GOP base and for many other voters who came to know Tom during the recall/Davis replacement election as a reliable champion of fiscal sanity in Sacramento.

All this should be sorted out by mid- to late-February. What we see then will go a long way toward answering the question: does Schwarzenegger really mean it?

## PENSION REFORM

As with overall spending numbers,



2004-05 compared to 2003-04

the sharp increase in state pension obligations have to be read twice to be believed: from \$160 million in 2000 to \$2.6 billion this year. Proponents of California's highly generous pension plans for state workers blame most of the steep hike here on the recently bearish stock market. But why should the people of the state absorb the risk of stock market investments while pension-receiving former state employees are blessed with guaranteed income no matter how the market behaves? Borrowing a change made by increasing numbers of private employers, Gov. Schwarzenegger wants to move from California's current guaranteed income plan to a 401(k) plan in which set amounts are contributed regularly and invested as the plan holder decides with the full amount contributed plus whatever investment income has accumulated over the years available to the plan holder at retirement. The stock market, by the way, is not quite the crap shoot many critics of this reform seem to think it is. Over long periods — 20 years, say — it tends to return around 10 percent on investment. In any event, the risk, and the potential reward, belongs to the pension holder, who can presumably opt for safe, relatively low-return investments if he or she prefers to do so. The one-sided argument that state workers should be spared all risk ignores the bald fact that some risk must be borne by someone in pension investing. The real question is who should bear it.

**T**he risk issue aside, California's pension system is also among the nation's most generous, as befits a state whose government under Democrat rule increasingly exists to serve itself, and to do so at the peoples' expense. The *San Francisco Chronicle* recently reported that, nationally, average private sector pensions pay 1.5 percent of pay multiplied by years of service and that public-sector employees, again nationally, who retire at 60 to 65 receive, on average, 1.8 percent of final pay times years of service. And in California? Workers covered by the California Public Employees' Retirement System retire *at age 55 with 2 percent* of pay times years of service, or at age 63 at *2.5 percent*.

This Schwarzenegger reform already exists in the

form of an initiative filed by Assemblyman Keith Richman of Northridge. Richman's plan, which no one expects the Democrat Legislature to enact, would make the pension changes effective for workers hired after July 2007. The *Sacramento Bee* recently reported that a "top [Schwarzenegger] aide" said "the governor believes the taxpayers cannot continue to pay for a pension system that's not found in any other segment of American society, whether it be the federal government or major U.S. corporations." The public employee unions will view this initiative as a life-or-death issue and it could develop into this year's biggest battle of all.

### REDISTRICTING

The least known, least understood issue addressed by Schwarzenegger's proposals involves the reform likely to have the greatest and most lasting impact if enacted. For those who don't know, the drawing of legislative and congressional district lines can have a

dramatic effect on likely winners and losers at election time for the simple reason that most voters tend to vote along party lines — that is, a district heavily Democrat or Republican in total registration will deliver, as the case may be, a Democrat or Republican winner almost all the time. A practice known as "gerrymandering" exploits this fact to create districts where most winners are determined before elections are held. As the governor said in his State of the State: "Here's a telling statistic: 153 of California's congressional and legislative seats were up in the last election and not one — I repeat — not one changed parties. What kind of democracy is that?"

The gerrymandering technique is simple in concept: draw the lines so as to jam huge majorities of your partisan opponents' voters into the smallest number of districts that you can manage thus wasting as many of their votes as possible on superfluous super-majorities; at the same time you spread your own partisan voters more efficiently, giving each of your own districts enough votes to insure your party's victory, but also not wasting votes and, thus, insuring a larger number of districts overall to your side: *i.e.*, giving your people control of the legislative body or delegation.

The one time since the 1960s that Republicans

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## '153 of California's congressional and legislative seats were up in the last election and not one changed parties.'

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won control of either California legislative house occurred in 1994, following a redistricting done *not* by legislators but by a special panel put together under court order after the Legislature and Gov. Pete Wilson could reach no agreement on new lines following the 1990 census. Eliminating gerrymandering won't guarantee Republican legislative majorities — the GOP contrived to lose its 1994 Assembly majority after just two years, though the lines hadn't changed. But failing to eliminate it, as the last election results affirmed, will almost certainly guarantee Republicans will remain the minority for many years to come.

**W**hen the initiative campaign begins, Democrats will paint the issue in strictly partisan terms. Gray Davis political guru Garry South has already been quoted saying that "If this looks to be a quick fix to give Republicans some advantage they can't win straight up at the ballot box, it's going to be serious trouble. Can Democrats beat [the governor] in that game? I don't honestly know. But he has to remember, this is a pretty considerably Democratic state." Of course, if California were really so dependably "Democratic," Garry's old boss would still be governor and his Party would have no need to rely on the thoroughly *anti*-democratic technique of gerrymandering to hold its legislative majorities. In truth, the registration lead Democrats enjoy diminishes daily. More importantly, the Sacramento Democrats are wildly out of step with their own Party's rank and file voters, not to mention with independents, which is why Gray Davis was bounced from office (despite being less left than the Dem legislative leadership).

Showing how little they understand the precariousness of their position, in December Democrat legislators arrogantly promised to resurrect all sorts of unpopular measures — homosexual marriage, drivers licenses for illegals, tax increases — that the governor vetoed last year. Keep giving Republicans the popular side of campaign issues to run on, eliminate rigged district lines, and California will again show, as it did in the recall, how "Democratic" it really is.

Opening up legislative races would almost certainly, especially over time, attract more voters and more and better candidates. Having to run in more closely balanced districts would discourage the sort of far-left extremism Sacramento Democrats routinely practice, freed as they are from any threat of voter retribution.

Schwarzenegger said he would "propose that an independent panel of retired judges — not politicians — determine California's legislative and congressional

districts. They can be drawn fair and honest, district lines that make politicians of both parties accountable to the people." The tough part will be winning and keeping voters' attention long enough to explain what it's all about and why it is important. The governor himself, in the State of the State, said that though he "learned about gerrymandering and how politicians changed the boundaries of voting areas to protect themselves" while studying to take his citizenship test, "for a long time I thought that was something that happened 'way back in the 1800s." He received better education last November. Can he similarly enlighten millions of California voters? We will see. In any event, this is one reform that, if enacted, will change state politics permanently. To reverse it, the people would have to vote to go back to letting legislators draw their own lines. That won't happen.

## EDUCATION

The governor's fourth, and politically toughest to enact, proposal is to "reward excellent teachers" by setting teachers' pay according to "merit, not tenure. And I propose that a teacher's employment be tied to performance, not just showing up." A Hoover Institution study written by former high school teacher and faculty member of UC Berkeley's school of education Julia E. Koppich blamed school districts and unions for current policies designed "to maintain the fiction that 'a teacher is a teacher is a teacher.' Compensation structures have failed to recognize that some teaching jobs are more difficult than others or that some teachers are more — or less — skilled than others.

"The time has come for school districts and teacher unions to take a different tack. It is time to develop and implement a professional compensation arrangement that recognizes the complex nature of the work of teaching and that compensates teachers for both the difficulty of the assignment and the professional accomplishment that is part of it." In short, what is called "merit pay." The problem is California's "single salary schedule" that pays teachers according to their background education levels and time on the job, ignoring their teaching skills. The unions will fight merit pay with every resource they can muster. Like any lumbering bureaucracy, California's educational establishment reacts like a vampire to a crucifix against anything that takes into account the differences distinguishing one human individual from another.

The governor has outlined bold, dramatic reforms. The coming battle, if he fights it gamely, will be historic. The first indications will come before the end of February.

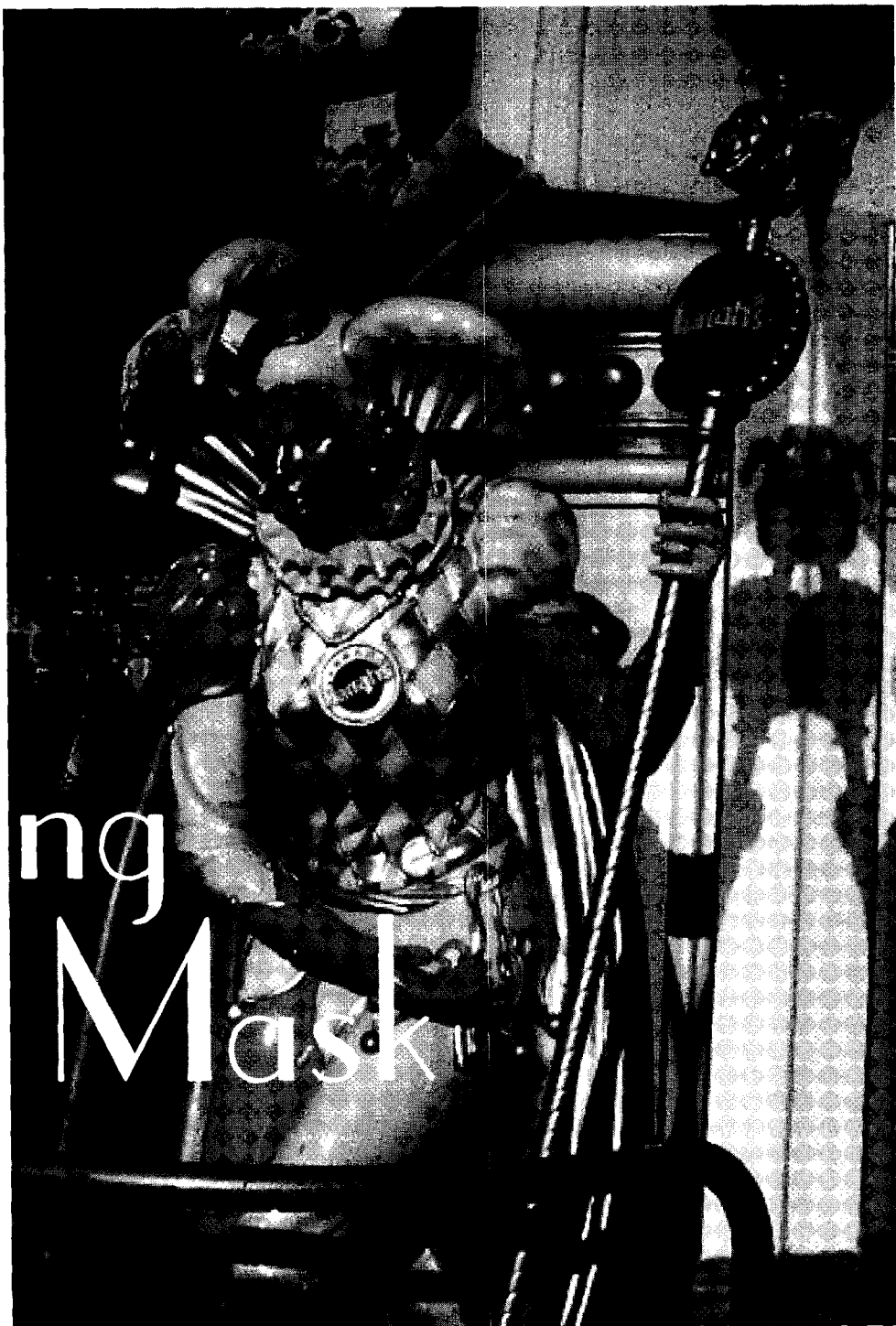
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Like a playful  
harlequin, Las  
Vegas connives  
to *be* Potterville  
while *looking*  
more like  
Disneyland.

# Wearing the Mask

Gregory Sanford

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A few days after my yearly Christmastime evening with Frank Capra's *It's a Wonderful Life*, I visited America's real-life Potterville — Las Vegas — a place reaffirming with a vengeance that reality always outdoes fiction, no author being foolish enough to expect his readers to

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swallow the lavish levels of extravagance the world doles out regularly and without a blush. Actually, Las Vegas plays a more complicated role than did Old Man Potter's straightforward slum and center of low living in the film. Where Potterville put on no false face to save appearances, Vegas wears the mask, like the playful harlequin greeting customers at Har-rah's. It tries to be both Potterville and Bedford Falls at the same time; or, rather, it connives to

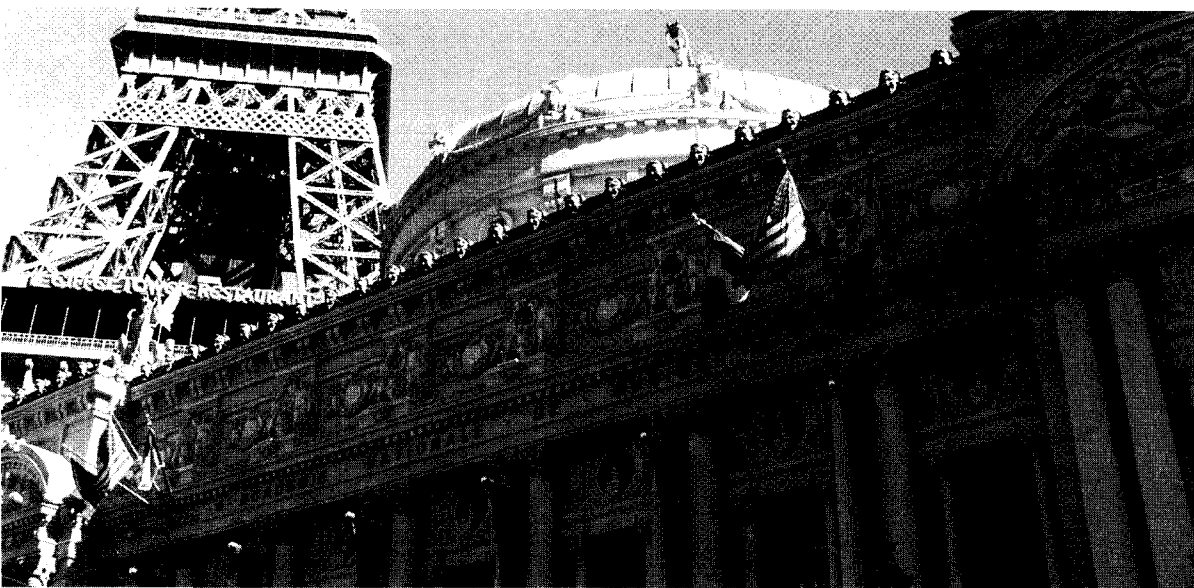
be Potterville while *looking* more like Disneyland.

The conflict derives partly from the city's near-absolute dependence on tourism. As described by Billy Vassiliadis, CEO and principal of R&R Partners, the Las Vegas Convention and Visitors Authority's longtime marketing firm, the town has maneuvered itself into the perhaps enviable, but also difficult, position of serving a cross-section of customers covering more or less every category alive.

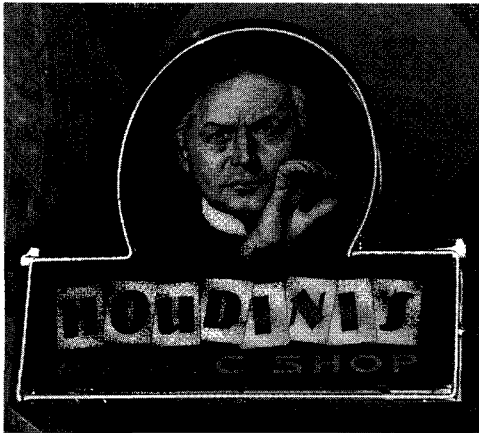
"The challenge that we've always faced is how to represent Las Vegas to what is probably the most diverse visitor base of any travel destination," Vassiliadis was quoted as saying last year in the *Las Vegas Mercury*. "I mean, you know who goes to Orlando, you know who goes to New York. But here, we've had to struggle with how to advertise to young and old, the wealthy and the not-so-wealthy, middle America and urban America, male and female, white and black and everything in between. To put it simply, our constituency is every hotel and motel room in Las Vegas." Vassiliadis noted that the "challenge" also derives from the conflicting desires of the city's inhabitants. "This city is in a major transition," he told the *Mercury*, "and as a result, we suffer from a pretty significant dual-personality disorder. On the one hand, we all intellectually understand that our taxes are low and we have

great restaurants and entertainment because of the tourism economy. But on the other hand, there's a whole generation of Las Vegans that want to feel like they live in a real city. So there's that part of us that's understandably crying for legitimacy and wants to be recognized as a healthy community with good schools and parks and Little League and Scouts."

This dual-personality disorder has a lengthy history. As early as 1968, with the opening of Circus Circus (which features "live circus acts, a carnival midway, and a theme park with the only indoor double-loop, double-corkscrew rollercoaster in the world"), "Las Vegans" evidently began trying to distance themselves from the Bugsy Siegel mob- and gambler-sleaze image of earliest days. They moved toward hotel/casino/resorts themed to emphasize a "family-friendly" side. If I remember correctly from a TV documentary I saw some time ago, teams were dispatched to study the Walt Disney parks to help guide the Vegans in charting their new direction. But if Disney was the inspiration, it was somehow garbled in transmission. For one thing, it all took on — as seemingly everything does in Vegas — gargantuan proportions, from Luxor's massive sphinx/pyramid to the ultimate fan-



*Paris Las Vegas, front entrance.*



Magic shows and shops are popular attractions in Las Vegas' land of make believe.

tasyland-on-steroids eyesore Excalibur. Where Disney captured and reproduced the *qualities* of childhood innocence and family wholesomeness, the materialism that created and moves Las Vegas at its core seemed able only to manage *quantity* — everything big and insistently attention-grabbing: grotesquely over-sized castle towers; 3,000-, then 4,000-, then 5,000-plus-room hotels; a colossal ersatz Em-

pire State Building and Chrysler Tower at New York-New York; an imitation Queen of the Adriatic — the Venetian — aptly described in 1999 by George Tennyson in these pages: “it simply throws together every obvious thing one can think of about Venice and imitates it inside an overpoweringly massive structure” (“The Squalor of Opulence,” *Criticus, CPR*, Sept./Oct. 1999).

What appears to be Las Vegas's (and for all I know the world's) largest endeavor of its kind, The MGM Grand, for the most part skips the Disney treatment and benefits as a result. Unencumbered by such confusion regarding its purpose, the Grand manages vastness without banishing all subtlety. Billed as the City of Entertainment, it boasts a 171,500-square-foot casino with 3,200 slots and 164 table games, 17 restaurants, a 17,157-seat arena for “mega concerts,” a hotel with 5,034 rooms including 751 suites, and a convention center giving the complex total meeting space of more than half a million square feet. Its Hollywood theme consists largely of understated reminders such as photos of MGM stars hung unobtrusively along corridors and in large casinos. Where the Vegas hugeness bug does bite, the Grand benefits by the contrast with its even more bitten neighbors: shar-

ing a corner with both New York-New York and Excalibur, the Grand's 45-foot tall, 100,000-pound front entrance bronze lion (the largest bronze statue in the United States), even perched atop a 25-foot pedestal, appears positively demure and dignified in the context of its neighbors' architectural gigantism that brought to my mind Albert Speer's *Inside the Third Reich*.

Like other resort destinations, Las Vegas was hurt by 9/11, and the growth of California casinos has undermined to some extent all of Nevada's once largely unique claim to offer what is still Las Vegas's essential attraction, gambling. In addition, the “family-friendly” gambit seems to have proven less successful than resort planners originally hoped it would be. As Billy Vassiliadis explained it:

“Las Vegas being a family destination is absolutely terrible for us in terms of setting ourselves apart from the competition. [After 9/11] we needed a campaign that would once again give adults a sense that they can create their own experience here .... within the bounds of legality, of course.” With gambling also losing its pop as a tool for setting Vegas apart from the competition, the city turned to its “Sin City” sobriquet, re-emphasizing a commodity California's casinos have not yet moved to co-opt: sleaze (without tears). “What happens here, stays here” — you too can behave like Bill Clinton, for a night, a weekend, and then go back to your normal life and no one will know (or, if they do, they won't care; this, after all, is Vegas: it's OK, even expected; go for it).

The “happens here, stays here” slogan, which became the basis of a new, phenomenally successful Las Vegas advertising campaign, tightly encapsulated a powerful element in the city's lasting allure (in just “five words — only one multisyllabic,” marveled one advertising critic): escape, at least in our own minds, from the normal, so often irksome constraints of real life such as having to work to obtain money or taking responsibility for one's moral behavior. Former Education Secretary William Bennett saw the power of the phrase. Shown sitting at a Vegas slot machine on Tim Russert's “Meet the Press,” he quipped: “Apparently, ‘What happens here, stays here’ ap-

plies to everyone but me.” Hearing that, Vassiliadis could scarcely contain his glee: “When we had right-wing, ultra-conservative Bill Bennett saying the line, we knew we’d hit a home run.” Under the headline: “The five words that revitalized Las Vegas,” the *Las Vegas Mercury* reported that the “happens here, stays here” campaign “was an instant smash, working its way into everything from ‘Late Night with David Letterman’ to ‘Frasier’ to promos for ‘CSI’ .... Vassiliadis knew it was working when he

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*A five-word phrase does not strike a chord with everyone from Bill Bennett to late-night TV airheads to 3 million additional visitors without touching something deep in our human nature and condition.*

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heard a stewardess use [the phrase] on a flight from Chicago.” According to the *Mercury*, Vassiliadis credits the ad campaign for a record-breaking January last year — “with more than 3 million visitors” — also for a 12 percent rise from the previous year in Vegas Strip gambling, a 15.5 percent increase in the average daily room rate over January 2003, and for Las Vegas’s McCarran International Airport reportedly becoming the nation’s first airport “to return to pre-9/11 airline traffic rates” early last year.

A five-word phrase does not strike a chord with everyone from Bill Bennett to airline stewardess and late-night TV airheads to 3 million additional visitors without touching something deep in our human nature and condition. The slogan, and the ads that go with it, depart from travel appeals’ usual reliance on tantalizing visuals. “We don’t have people sunbathing,” Vassiliadis said, “we don’t have gambling, we don’t have fancy restaurants, we don’t have showgirls, we don’t really even have any of the properties.” Jeff Candido, the 28-year-old R&R Partners’ advertising copywriter who came up with the phrase said “someone re-

cently told me that the ads rely on the Hitchcock strategy. The Hitchcock movies were so scary because he didn’t show the murder. He didn’t show the real violent stuff or the gore, but you imagined it in your head 10 times worse than he could ever show on film. And that’s kind of what we did with the ads.” Vassiliadis’ creative director Randy Snow said the “What happens here, stays here” line closes the loop for each ad. “People saw that line and they went, ‘Ohhh, now I get it.’ It made the situations real for them.”

The ads show ordinary people in suggestive situations in Vegas, but with nothing specific, just possibilities to play with in viewers’ minds. They show potential customers how they can make their own the “dual-personality disorder” that pulses through everything Vegas — a little too explicitly, evidently, for some prominent city residents. Harrah’s executive (and former Las Vegas mayor) Jan Jones has slammed the ads’ implied message. The *Mercury* reported that *Las Vegas Sun* columnist “Jeff German — who seems to have an ax to grind with Vassiliadis — has recently blamed the ‘Vegas Stories’ for everything from the appearance of the Ohio sniper in Las Vegas to the 55-hour Britney Spears wedding.” Supplying the Cotton Mather element, the *Mercury* adds that “R&R Partners has also come under fire from religious groups and the Nevada PTA, both of whom object to the suggestive nature of the ads.”

Copywriter Candido comes to the rescue, explaining the campaign’s, and, for that matter, the city’s whole point. “I think it’s hilarious,” he says, “because anyone who sees anything salacious or sexy or perverted in any of these ads is only seeing it in their own heads. That’s what makes me laugh whenever people talk about how scandalous they are. It’s like, ‘You know what? You’re the perv that’s making



In some quarters, Vegas house rules are unambiguous and strict.

them scandalous.” Like the author of *Candide*, a tale from which Mr. Candido might have escaped, our young copywriter facing evil finds refuge in scrambling his own mind into hopeless confusion. “Let us put at the end of nearly all chapters on metaphysics,” wrote Voltaire in his *Philosophical Dictionary*, “the two letters used by Roman judges when they could not understand a lawsuit: *N. L., non liquet*, this is not clear.” And thank God for that, otherwise we might have to face the consequences of our own decisions and actions. We might not be able to plaster 60-foot high banners of naked women on our streets while still wanting to be recognized as a healthy community with good schools and parks and Little League and Scouts. We might not be able to cultivate a “family friendly” image while hammering the city’s visitors in ubiquitous ads for New York-New York’s explicitly pornographic Cirque du Soleil production *Zumanity* (“The Human Zoo”) with images of self-fondling, embracing, laughing nudes. We might not be able to explain it all away on our websights by informing readers that Cirque du Soleil’s “creative approach has always been about exploration. In *Zumanity*, we explore the sensuality of the human body. As a result, nudity, both implied and authentic, is an organic element of the production. Tasteful, artistic and daring, *Zumanity* reveals the body in such a way that the beauty of the human form is celebrated” — topping it off with the *de rigueur* reminder that “If you are easily offended, this show may not be for you,” *i.e.*, if your mind is insufficiently chloroformed to feel daringly comfortable submerged in imbecilic self-delusion. George Orwell

helped explain the Candido technique: “Double think means the power of holding two contradictory beliefs in one’s mind simultaneously

and accepting both of them. The party intellectual knows in which direction his memories must be altered, therefore he knows that he is playing tricks with reality; but by the exercise of double think, he also satisfies himself that reality is not violated.”

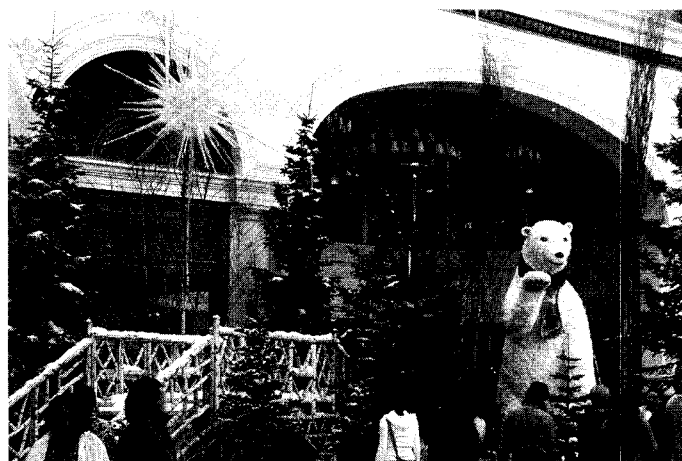
Las Vegas has its moments: particularly at Bellagio, where the sleaze is at a low ebb (it’s Cirque du Soleil production, titled simply “O,” is described as paying “homage to the magic of the theatre — from the simplest street performance to the most lavish of operas — where anything is possible and where the drama of life plays itself out before your very eyes.” I did not see the production, so can only hope it is as innocently entertaining as it sounds.) The hotel’s fountains shooting upward from the lake that stands before the main entrance, accenting and three-dimensionalizing music in graceful movement and sound, are an original, inspired, thoroughly enjoyable work of art. And the hotel itself, despite its unavoidable Vegas bigness, is elegantly, memorably beautiful. Of course, Bellagio is owned by MGM Mirage, owner also of New York-New York among several major Vegas properties, so don’t get the idea the management is any sort of Bedford Falls Building and Loan oasis in an island of Pottervilliana.

Bellagio, evidently, is just where the more wholesome personality of the city’s disordered subconscious rises to the top. Still, it shows there *is* a Dr. Jekyll at work in addition to Mr. Hyde. And it is always a mistake to give evil credit for victories it has no more than partially won. It is well to remember that even in Vegas,

as T.S. Eliot put it, there are no lost causes because there are no gained causes.

Life proceeds.

CPR



**Bellagio calls its Conservatory & Botanical Gardens, here decked out for Christmas, ‘a kaleidoscope for your senses.’**

# ARTS & CULTURE



C R I T I C U S

## Blue

B Y G . B . T E N N Y S O N

**T**HE MATTER first began troubling me during the 2000 election, then became most annoying in the 2002 mid-term election, and by the 2004 presidential election it had become a pronounced infuriation. In the time since then it has become an almost Ahabian obsession. The matter in question is that of blue and red states on maps of the U.S. to designate, respectively, Democrat and Republican majorities. As every schoolboy knows, or ought to, blue is the color of conservatism and the right, while red is the color of socialism, communism, and the left. So Criticus had to investigate why these associations had been reversed in recent years by the media. His investigations have borne much fruit and have even taken him far beyond the confines of American politics into the very meaning of color and even the meaning of meaning. First, however, the current uses of red and blue.

My deepest researches have revealed that in general my instinctive associations of blue with the right and red with the left are correct. Such are the associations

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*G.B. Tennyson is CPR's symbology and chromatology correspondent. His eyes are not blue but green.*

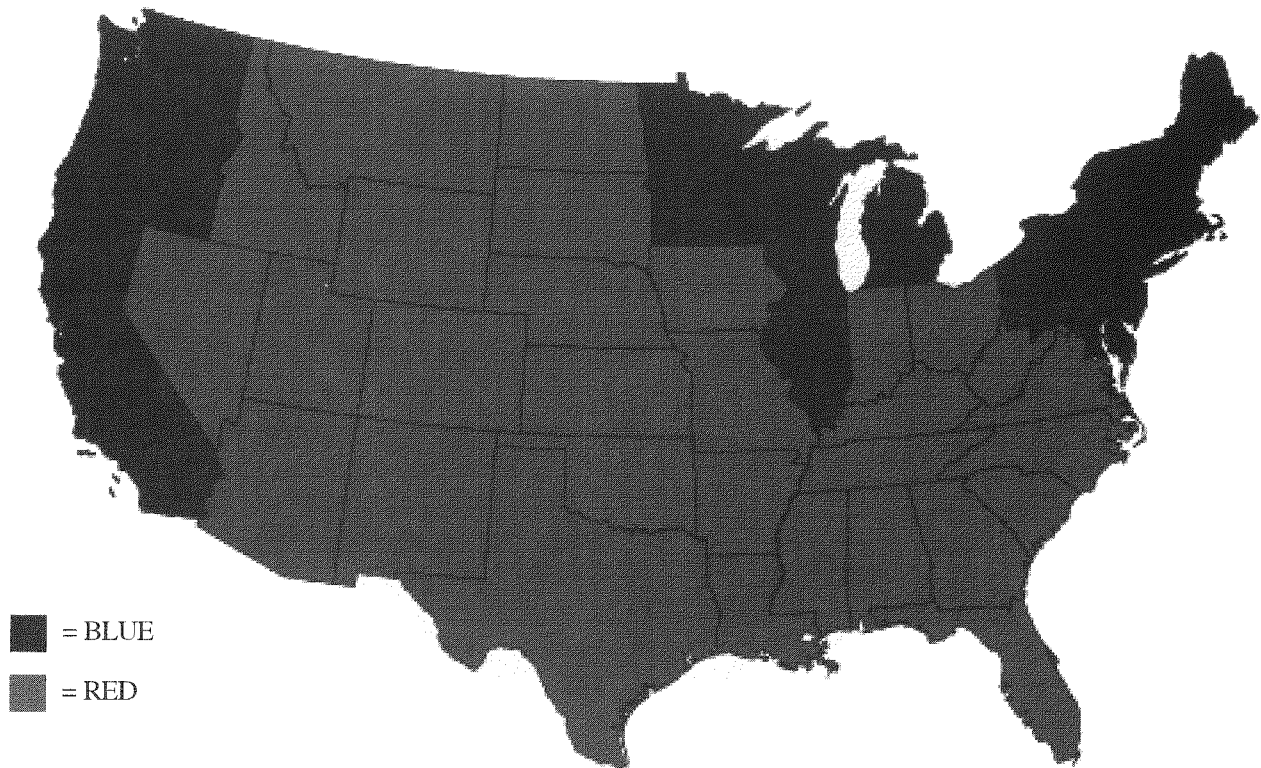
to this day in Britain where blue is the Tory color and red that of Labour. And, of course, worldwide red is the color of communism and the revolutionary left. Look even now at the flag of what not so long ago was referred to as Red China and remember also what the Soviet flag looked like before it was retired in favor of the old Czarist colors when the USSR transformed itself back into Russia. If Putin continues his present course, we may yet see the old red flag restored. Of course, red, usually in company with other colors, appears in countless flags, including the American, with no leftist implications. It is when it is used by itself that it generally conjures up the socialist spectre. One thinks of the Red Army and the Red Menace posed by those "Pinko Commies" of the 1950s. Now there's a decade that knew its colors.

**A**S WE move into more recent times in America we find that these traditional associations of red for Democrat and blue for Republican have a somewhat checkered history. In the 1976 election, for example, *Time* magazine used red for Democrats and white for Republicans, while NBC featured Republican blue and Democrat red, then reversed

them in 1980. In 1988 *Time* went to Republican blue and Democrat red and stayed with that use through the 2000 election. In general the television networks also stayed with Republican blue and Democrat red up to the 2000 election. The *National Atlas of the United States* still uses the traditional Republican blue and Democrat red. But in the 2000 election most news media reversed the colors, possibly just to show impartiality, though Criticus, conspiracy theorist that he is, suspects that they purposely switched in order to associate the Democrats with the more congenial blue and the Republicans with the more incendiary red.

**T**HE RED-BLUE reversal was annoying enough to traditionalists, but what has really made Criticus see red, if you will, has been the incorporation of this color pairing into the language. In an article by Paul Fahri in *The Washington Post*, the author attributed the first talking about red states and blue states to Tim Russert, who later insisted he was not the first. It was chiefly during the long Florida recount that, according to Fahri, "the commentary magically reached consensus on the proper [sic] colors." The usage was sealed, he wrote, when David Letterman said that a "compromise would make Bush president of the red states and Al Gore head of the blue ones."

Since the 2004 election the usage has spread like a malignancy to the point where everybody from Michael Moore to Rush Limbaugh speaks more often of red and blue states than of Republicans and Democrats. (Criticus notes that Limbaugh and some of his callers have deplored the red-blue association but have not stemmed the tide.) It is now instantly understood when one hears about people in the red states and the blue states, and there has even been talk of each as of separate nations. The ABC network has a nightly segment of its news broadcast titled "American Red—American Blue," with red and blue flashed onto the screen in corresponding colors. That more than commonly insipid television presenter Carole Simpson even argued that the red states conformed very closely to the outline of the Confederacy, which would come as a surprise to the residents of, say, the Dakotas. But thought about the Confederacy seems to have stimulated the imaginations of those wound-licking blue-staters who have been calling, only slightly in jest, for the secession of the blue states from the red ones, with the blues retaining the title United States and joining and absorbing Canada and with the reds redesignated "Jesus-Land." For those of us who still love the Lost Cause it's downright comforting to find that at long last the right of states to secede is being recognized in places like Massachusetts and New York. "Hurrah, hurrah for



the Bonnie Blue Flag!" where blue bears its rightful associations. What would Lincoln say?

The modern-day blues have much to complain about, it seems. The *Los Angeles Times* recently ran a front-page headline reading "Proposal Would Hit Blue State Taxpayers." This in reference to the newly received wisdom that taxpayers in blue states "subsidize" those in red ones by putting out more in federal taxes than they receive in return, whereas the opposite is true for red-staters. One would think all those liberals would be only too happy to see their money go to the less affluent. Even so, they appear to overlook the fact that red-staters far outstrip blue-staters in personal giving to charity. Blues would no doubt sneeringly ascribe this to excess religiosity.

Apart from all this umbrage and resentment the issue remains for Criticus the infiltration into the language and consequent infiltration into unconscious mental acceptance of the red-blue dichotomy. It set him again to pondering the whole matter of color associations. Once started, Criticus could scarcely stop himself. Constant Readers will find the same, I believe, if they indulge in similar reflections and will probably be able to add to the associations I cite. By this I mean that all colors have certain associations, and all usually have more than one.

Often the associations are contradictory, existing in two senses, what in mediaeval times was designated as being *in bono* or *in malo* — that is, good or bad. White signifies purity and innocence but is also the color of surrender. Black at its best signifies penance and suffering and even more in modern times evil, black-hearted evil, doing black deeds, and, course, death and mourning. It is almost alone in having no truly positive associations, unless we count "Dark Eyes" as a positive and black as a mode of concealment, which can be good or bad. Brown can be good, as in "nut-brown maid" or bad as in the highschool taunt, "brown-nose."

**Y**ELLOW in the Confederacy was the color designating hospitals, and from that, I believe, we learned to tie those yellow ribbons 'round the old oak tree as symbols of remembrance and hoped-for reunion. The yellow rose of Texas is also a positive symbol. But at the same time yellow is the color of cowardice and the color of caution, and it was used derisively for the Star of David that Nazis required Jews to wear on their clothing. Nor were they alone in holding yellow in contempt: remember the Yellow Peril? Green is the color of youth and of growth

***Carole Simpson argued the red states conformed closely to the outline of the Confederacy, which would come as a surprise to the residents of, say, the Dakotas.***

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as in the German novel *Der grüne Heinrich* (Green Henry) and in Andrew Marvell's delicious "green thought in a green shade"; but it is also the color of the green-eyed monster, envy.

The one common color that Criticus can find no contrasting associations for is the grandly unrhymable orange. The closest I could come was the apparently favorable but slightly ambiguous line from an old standard that runs: "I was walking along, minding my business, when out of an orange-colored sky, Flash! Bam! Alakazam! Wonderful you walked by." Barring corrections from readers, we shall consider orange to be above the fray.

No such lack of associations obtains for red and blue, especially blue. Red signifies blood, in the good sense that of martyrs and sufferers and more recently of being red-blooded, hence bold and sturdy. In a negative sense red suggests having blood on one's hands or killing in cold blood. It is also the color of miscreants, especially those caught red-handed. It is the color of fury and rage and the color of stop and of high alert. Red's relatives like pink and purple (this latter a blend with blue) have also each their good and bad associations. Pink is the color for girls, suggesting sweetness and delicacy and also the maidenly blush, but pink has its negative communist links and its association with homosexuality and Nazi pink triangles. Purple is the color of royalty but also of excessive overwriting, as in purple prose. A kind of violet-purple is the ecclesiastical color of the seasons of Advent and Lent, times of somber reflection on one's sins as well as betokening anticipation for the good news to come. The dark blue violet is a symbol of shy withdrawal, as in shrinking violet, even as it is also thought of as a welcome harbinger of spring.

More associations can doubtless be cited in connection with red and its kindred, but it is blue that is the special color, the color of colors. Among the good blues we can number blue skies, blue blood, blue book, the

***The dust jacket showing the spectacularly blue-gowned Virgin surrounded by eleven blue-gowned angels all worshipping the gold-draped Christ Child is alone almost worth the price of the book.***

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blue bird of happiness, blue Peter, and even a blue moon (good because rare). Among the bad blues we count blue days, blue laws, blue movies, and blue murder. Incongruously, the blues can be good or bad or even good and bad. One does not want to have the blues but having them led to the creation of the musical blues. A similar kind of contradiction exists in the old standard song that goes: "Blue skies, smiling at me, nothing but blue skies do I see. / Blue days, all of them gone, nothing but blue skies from now on."

**A**LL OF the foregoing shows just how puzzling and problematic color associations can be. But how did they come to be that way? The fact is that colors and their associations are anything but self-evident and fixed. They are in fact products of historical change and development and intimately connected with human change and response. No color shows this development more than blue. And no color can boast of a grander and more informative written treatment. I refer to the splendid book by Michel Pastoureau, *Blue: The History of a Color* (Princeton University Press, 2001; translated by Markus I. Cruse from the French *Bleu: Histoire d'une couleur*). The book is an intellectual *tour de force* as well as being visually stunning with its blue binding and ninety-nine color plates making it a dazzling coffee-table book. And the dust jacket showing the spectacularly blue-gowned Virgin surrounded by eleven blue-gowned angels all worshipping the gold-draped Christ Child, a detail from the Wilton Diptych in the National Gallery in London, is alone almost worth the price of the book.

The first thing we learn from *Blue* is that for all practical purposes the color blue did not exist until mediaeval times or at least was insignificant or negative. Totally absent in pre-historic paintings and the like, blue remained so unremarked until the Middle Ages that

most languages did not have a clear and unambiguous word for it. Modern words for blue come chiefly from the Germanic, as in German *blau*. Even the chauvinist French borrowed their *bleu* from that source. *Sacré bleu!* The three basic colors of ancient civilizations were white, red, and black. So amorphous was the terminology for blue, often designating colors from gray to brown to black, that some researchers claimed, and some still do, that the ancients could not actually see blue, and that only an evolution in vision has enabled us to see and define the color. Although Criticus himself remains undecided, Pastoureau rejects such notions, pointing out that the Romans (though not apparently earlier peoples) saw the color but were indifferent or even hostile to it. They associated it with barbarism and believed blue eyes to be a physical deformity, indicating loose morals in a woman and effeminacy in a man. Something of the sort lingers on today among some Orientals and some proponents of the "philosophy" of Negritude who revile whites as "blue-eyed devils." So much for thinking only Westerners are racist. What would Hitler say?

Exactly when and how blue emerged from its obscurity or dishonor is the subject of a full chapter in Pastoureau's book and cannot be replicated here. We should note, however, that it was no overnight change. It occurred from the eleventh to the fourteenth century and involved some important conflicts. The great Abbot Suger of the Church of Saint-Denis outside Paris (often claimed as the origin of Gothic architecture) was a proponent of blue, whereas the equally eminent Bernard de Clairvaux, so-called "second father" of the Cistercians, was an opponent, not only of blue but of the use of color in churches in general. Anyone who has visited a Cistercian abbey, as Criticus did a few years ago not far from Cologne, will be struck by the absence of stained glass windows and the consequent lightness and brightness of the interior. That was Bernard's point. But visit also the almost voluptuous, richly stained-glass interior of La Sainte-Chapelle across from Notre Dame in Paris, and it makes one feel as if embraced by jewels of every hue. That was Suger's point.

The debate between color and light dominated twelfth-century ecclesiastical thought, and over the next several centuries color increasingly prevailed. It was only in the twelfth century that blue became Mary's color, as it has remained ever since. Earlier she was always depicted simply in dark colors, black or brown or gray, each meant to denote suffering. But as color came to be used more and more and — equally

important — as methods of reproducing colors other than black, white, and red became more highly developed, the Church not only employed more color in its decorations but it also perfected the ecclesiastical color scheme we know today.

PRIOR TO that time liturgical colors varied not only from country to country but from diocese to diocese. Moreover, they were very infrequently written about, so reliable information is scanty. Only from the tenth century on was there any substantial literature on church colors, though a broad scheme had evolved from the seventh to the ninth century. Today the official liturgical colors are: white, red, green, violet, black, rose (only on two Sundays of the year), and light blue (only for feasts of the Blessed Virgin).

Although the acceptance of blue was relatively late in the history of color, once it became Mary's color, it swept all before it. Given the influence of religion, blue became a highly prized color in society at large. First, it was adopted for the French coat of arms probably because Mary was the protector of the French kingdom. From there it spread to heraldic colors, and by the middle of the thirteenth century it was attached to the legendary King Arthur, and from Arthur to royalty in general. It even became involved in sumptuary laws, being forbidden to persons of low social status, and being strictly controlled in regard to which dyers were permitted to produce it. It was an extraordinary success story, but some troubles lay ahead.

From the fifteenth to the seventeenth century blue, along with other colors, found itself caught up in the Reformation. To simplify, in general Protestants disapproved of color, especially in clothing. They also didn't much like it in church. Think of the spoliation of the monasteries. Though they have softened a bit, even to-

day Protestant churches are noted for their visual simplicity. One could say that in the color wars they are on the side of the Cistercians. In clothing during most of the period black made a comeback as the appropriate

color for serious people and occasions, a tradition that lingers on today in tuxedos and the little black dress. Blue learned to accommodate and went darker, navy blue being the most obvious result. Thus blue became a moral color and was contrasted with red, which suggested, as it often still does today, riotous excess.

By the eighteenth century blue triumphed over red, especially in matters of dress, but also more generally. Pastoureau writes that by the end of the eighteenth century blue had become the favorite color of so-

ciety and that it remains so to this day. Techniques of dyeing fabric blue increased in sophistication, not least because of the wider use of the superior indigo over the use of more primitive woad. Even the vocabulary for various shades of blue increased. In French in 1765 there were twenty-four words for blue whereas a century earlier there were only thirteen. (Interesting query: how many words do Eskimos have for blue?)

WITH THE Romantic period from the late eighteenth century until the mid-nineteenth blue reigned supreme. Young Werther in Goethe's novel (1774) set a fashion for light blue coats that reflected Goethe's own fascination with blue. Indeed, blue is the central color of Goethe's book on color theory, *Die Farbenlehre* (1810), which confounds traditional color theory and is too complicated to go into here but which helped spur the Romantic obsession with blue.

It was Novalis's unfinished novel *Heinrich von Ofterdingen* (1802) that put its blue seal on German, and



derivatively all, Romanticism. In it a mediaeval troubadour seeks to find a blue flower he has seen in a dream and that represents pure poetry and the ideal life. From then on the Romantics wrote endlessly of the search for *die blaue Blume* (the blue flower) as of the search for the unattainable ideal.

TO THIS day, as Criticus understands it, horticulturalists believe that there is no such thing as a truly blue flower. Perhaps Criticus is almost as unseeing as the ancients, for to his eye the cornflower, the periwinkle (which ancients described as black!) and even certain lobelia look really quite blue. But he will concede that there has never been anything such as a blue rose, though hybridists have sought for decades to produce one. It was Laura in Tennessee Williams's *The Glass Menagerie* who through a verbal mix-up was called "Blue Roses" by a boy in high school who some years later came to be briefly the always hoped-for "Gentleman Caller," but like blue roses it was an illusion, and he didn't stay. From about the same era there was a film-noir titled "Blue Gardenia" and featuring a song of the same name memorably rendered by Nat King Cole. But here the blue gardenia was a beautiful young murder victim. Criticus believes that all of these things are echoes, even if unconscious ones, a century and a half after the search for the elusive *blaue Blume*.

Well, the story goes on through the adoption of blue in many western national flags, to the dominance of blue in military uniforms, to Levi Strauss's blue jeans, to the French cigarettes *Gauloises* and consequently the term "*Gauloises bleu*" (Gauloises blue) from the distinctive color of the packaging. Oddly Pastoureaux omits

mention of Delft blue, so much used in dinnerware, especially the famous Blue Onion dishware, and therefore, in the Critical view, the probable origin of the blue plate special. Blue is indeed, according to Pastoureaux, the most popular color in the Western world today.

Beyond these associations and underlying Pastoureaux's entire book is the illuminating thesis that color is not something that exists outside of the perceiver. We see, for example, blue as a "cool" color and red as a "hot" one. Yet Pastoureaux argues that there are no such things as hot and cold colors; these are our responses to them. We see the sea as blue where earlier eras saw it as gray or green. When Criticus used to cross the almost steel-gray north Atlantic in his (green) salad days, it looked anything but blue. By contrast the Mediterranean and the Caribbean and many tropical seas are indeed blue, albeit a very light and not a true blue.

Discernible, though unintentional, in Pastoureaux's brilliant study is the notion of what Owen Barfield called "participation," by which he meant something like the interaction between the observer and the observed without which there really is no perception at all.

This is why Criticus is so exercised over the Red-Blue usage and the way it is worming itself into our consciousness. Because colors are phenomena in which we participate we must use them with care. So here is the call to action, to *écrasez l'infame* of the current misuse of red and blue in our public discourse, to bring forth the tumbrels and fill them with the rabble of the chattering classes. We must take back the blue, so that we can again go in pursuit of the Blue Flower and make it our own.

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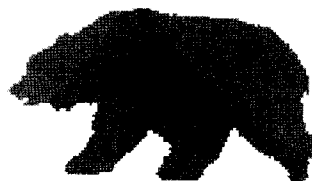
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